CHAPTER 1

General Provisions

ARTICLE 1

Department of Commerce

**SECTION 13‑1‑10.** Department of Commerce established.

(A) The Department of Commerce is established as an administrative agency of state government which is comprised of a Division of State Development, a Division of Savannah Valley Development, a Division of Aeronautics, a Division of Public Railways, and an Advisory Coordinating Council for Economic Development. Each division of the Department of Commerce shall have such functions and powers as provided for by law.

(B) All functions, powers, and duties provided by law to the State Development Board, the Savannah Valley Authority, the South Carolina Aeronautics Commission, the South Carolina Public Railways Commission, and the Coordinating Council for Economic Development, its officers or agencies, are hereby transferred to the Department of Commerce together with all records, property, personnel, and unexpended appropriations. All rules, regulations, standards, orders, or other actions of these entities shall remain in effect unless specifically changed or voided by the department in accordance with the Administrative Procedures Act.

HISTORY: 1993 Act No. 181, Section 243, eff July 1, 1993.

Editor's Note

Former Title 13, Chapter 1, was entitled: General Provisions. It contained Section 13‑1‑10, entitled: Agreements by state agencies to carry out comprehensive development programs, and had the following history: 1962 Code Section 1‑49.5; 1974 (58) 2028; Repealed by 1993 Act No. 181, Section 243, eff July 1, 1993.

**SECTION 13‑1‑20.** Purposes of department.

The Department of Commerce shall conduct an adequate statewide program for the stimulation of economic activity to develop the potentialities of the State; manage the business and affairs of the Savannah Valley Development; develop the state public railway system for the efficient and economical movement of freight, goods, and other merchandise; and enhance the economic growth and development of the State through strategic planning and coordinating activities.

HISTORY: 1993 Act No. 181, Section 243, eff July 1, 1993; 2012 Act No. 270, Section 9, eff June 18, 2012.

**SECTION 13‑1‑25.** Public monies defined; accountability and disclosure requirements; reporting requirements.

(A) The monies constituting a fund of any kind used by the department in carrying out a purpose described in Section 13‑1‑20 are public monies, notwithstanding their public or private source, and must be treated like public monies for all purposes. These monies are subject to all accountability requirements governing public monies, including compliance with the South Carolina Consolidated Procurement Code, unless exempt by formal approval of the State Fiscal Accountability Authority. These monies are also subject to all disclosure requirements governing public monies, unless exempt by Section 30‑4‑40.

(B) In addition to all other required audits, reviews, and reports, by January first of each year the director must submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, the members of the Senate Finance Committee, and the members of the House Ways and Means Committee a detailed written report of all expenditures for each fund during the previous calendar year. This report must include an explanation of the specific purpose of each expenditure including recreational or entertainment purposes. Expenditures made pursuant to negotiations with an industry or business and which are ongoing as of December thirty‑first of the previous year may be excluded from that calendar year's report and reported the following January or January of the year following public announcement by the company.

HISTORY: 2003 Act No. 86, Section 1, eff July 14, 2003; 2019 Act No. 1 (S.2), Section 48, eff January 31, 2019.

Effect of Amendment

2019 Act No. 1, Section 48, in (B), in the first sentence, substituted "January first" for "January 1" and "President of the Senate" for "President Pro Tempore of the Senate", and in the third sentence, substituted "December thirty‑first" for "December 31".

**SECTION 13‑1‑30.** Secretary of Commerce; executive director; division directors; duties and responsibilities.

(A) The Department of Commerce shall be headed by a secretary, to be known as the Secretary of Commerce, who shall be appointed by the Governor upon the advice and consent of the Senate. The secretary shall be vested with the duty and authority to oversee, manage, and control the operation, administration, and organization of the department subject only to the laws of this State and the United States. He shall receive such compensation as may be established under the provisions of Section 8‑11‑160 and for which funds have been authorized in the general appropriations act. He is subject to removal by the Governor as provided in Section 1‑3‑240.

(B) The Secretary of Commerce may appoint an executive director who shall serve at the pleasure of the secretary and shall be responsible to the secretary for the operation of programs outlined by the secretary.

(C) Notwithstanding any other provision of law, the Secretary of Commerce may appoint a director for each division of the department. Each director shall serve at the pleasure of the Secretary of Commerce and shall be responsible to the secretary for the operation of the programs outlined by the secretary.

HISTORY: 1993 Act No. 181, Section 243, eff July 1, 1993; 1994 Act No. 361, Section 3, eff May 3, 1994; 2005 Act No. 11, Section 1.A, eff upon approval (became law without the Governor's signature on January 13, 2005); 2012 Act No. 270, Section 10, eff June 18, 2012.

**SECTION 13‑1‑40.** Advisory councils.

At the discretion of the Secretary of Commerce an advisory council or councils may be appointed to advise with respect to each broad function which may be the responsibility of the Secretary of Commerce. Each advisory council shall consist of a group of not more than nine members, consisting of state and local governmental officials and of private individuals of outstanding ability in fields of enterprise related to the particular function with respect to which its advice is desired. The members shall receive no salary or per diem but may be compensated for all actual expenses incurred in the performance of their duties. The members shall serve for terms to be established by the Secretary of Commerce and may be removed at the pleasure of the Secretary of Commerce. Governmental officials shall serve on such councils for a period of one year and may be reappointed for successive terms by the Secretary of Commerce; provided, that their terms shall end with the termination of their office as officials.

HISTORY: 1993 Act No. 181, Section 243, eff July 1, 1993; 1994 Act No. 361, Sections 8, 9, eff May 3, 1994.

**SECTION 13‑1‑45.** South Carolina Water and Wastewater Infrastructure Fund created; definitions; powers and duties of Department of Commerce; criteria for selecting qualified projects.

There is established under the direction and control of the Secretary of Commerce the South Carolina Water and Wastewater Infrastructure Fund for the purposes of selecting, assisting, and financing major qualified projects by providing financing assistance to governmental units and private entities for constructing and improving water and wastewater facilities that are necessary for public purposes, including economic development and for technology‑related infrastructure grants for local units of government.

(A) As used in this section:

(1) "Fund" means the South Carolina Water and Wastewater Infrastructure Fund.

(2) "Department" means the Department of Commerce.

(3) "Financing agreement" means any agreement entered into between the department and a qualified borrower pertaining to financing assistance. This agreement may contain, in addition to financing terms, provisions relating to the regulation and supervision of a qualified project, or other provisions as the department determines. The term "financing agreement" includes, without limitation, a loan or grant agreement, trust indenture, security agreement, reimbursement agreement, guarantee agreement, ordinance or resolution, or similar instrument.

(4) "Government unit" means a municipal corporation, county, special purpose district, special service district, commissioners of public works, or another public body, instrumentality or agency of this State including combinations of two or more of these entities acting jointly to construct, own, or operate a qualified project, and any other state or local authority, board, commission, agency, department, or other political subdivision created by the General Assembly or pursuant to the Constitution and laws of this State which may construct, own, or operate a qualified project.

(5) "Loan obligation" means a note or other evidence of an obligation issued by a qualified borrower.

(6) "Financing assistance" means, but is not limited to, grants, contributions, credit enhancement, capital or debt reserves for debt instrument financing, interest rate subsidies, provision of letters of credit and credit instruments, provision of debt financing instrument security, and other lawful forms of financing and methods of leveraging funds that are approved by the department, and in the case of federal funds, as allowed by federal law.

(7) "Project revenues" means all rates, rents, fees, assessments, charges, and other receipts derived or to be derived by a qualified borrower from a qualified project or made available from a special source, and as provided in the applicable financing agreement, derived from any system of which the qualified project is a part of, from any other revenue producing facility under the ownership or control of the qualified borrower including, without limitation, proceeds of grants, gifts, appropriations, including the proceeds of financing made by the department, investment earnings, reserves for capital and current expenses, proceeds of insurance or condemnation, and proceeds from the sale or other disposition of property and from any other special source as may be provided by the qualified borrower.

(8) "Qualified borrower" means any government unit, public or private nonprofit entity approved by the department that is authorized to construct, operate, or own a qualified project and receives financing assistance pursuant to this section.

(9) "Qualified project" means an eligible project that has been selected by the department to receive financing assistance pursuant to this section.

(10) "Revenues" means any receipts, fees, income, or other payments received or to be received by the department, expressly for the fund including, without limitation, receipts and other payments deposited for the fund and investment earnings on any monies and accounts established for the fund.

(B) The department shall provide the required staff and may add additional staff or contract for services, if necessary, to administer the fund in accordance with this section. The compensation, costs, and expenses incurred incident to administering the fund may be paid from revenues. If the department requests, the Department of Administration may provide legal, technical, planning, and other assistance through intergovernmental agreement. Costs incurred by the board pursuant to such a request must be reimbursed to it by the department from revenues.

(C) In addition to the powers and authority granted in this chapter, the department has the powers and authority necessary to carry out the purposes of this section including, but not limited to:

(1) establish procedures and guidelines necessary for the administration of this section;

(2) offer any form of financing assistance that the department considers necessary to any qualified borrower for a qualified project;

(3) provide loans or other financing assistance to qualified borrowers to finance the eligible costs of qualified projects and to acquire, hold, and sell loans or other obligations at prices and in the manner the department determines advisable;

(4) provide qualified borrowers with other financing assistance necessary to defray eligible costs of a qualified project;

(5) enter into contracts, arrangements, and agreements with qualified borrowers, governmental units, or other otherwise eligible entities, and execute and deliver all financing agreements and other instruments necessary or convenient to the exercise of the powers granted in this chapter;

(6) enter into agreements with a department, agency or instrumentality of the United States or of this State or another state for the purpose of planning and providing for the financing of qualified projects;

(7) establish fiscal controls and accounting procedures to ensure proper accounting and reporting by qualified borrowers;

(8) acquire by purchase, lease, donation, or other lawful means and sell, convey, pledge, lease, exchange, transfer, and dispose of all or part of its properties and assets of every kind and character or any interest in it to further the public purpose of the fund, without further approval or authorization;

(9) procure insurance, guarantees, letters of credit, and other forms of collateral or security or credit support from any public or private entity, including any department, agency, or instrumentality of the United States or this State, for the payment of any debt issued by a qualified borrower or other entity receiving assistance pursuant to this section, including the power to pay premiums or fees on insurance, guarantees, letters of credit, and other forms of collateral or security or credit support, without further approval or authorization;

(10) collect fees and charges in connection with financing assistance and expend such funds to effectuate the purposes of this section;

(11) apply for, receive and accept from any source, aid, grants, and contributions of money, property, labor, or other things of value to be used to carry out the purposes of this section;

(12) do all other things necessary or convenient to exercise powers granted or reasonably implied by this chapter.

(D) The department shall establish accounts and subaccounts within the state accounts and any federal accounts to receive and disburse funds to effectuate the purposes of this section. Earnings on the balances in these state accounts must be expended to effectuate the purposes of this section. Earnings on balances in the federal accounts must be credited and invested according to federal law. All accounts must be held in trust by the State Treasurer and the unexpended funds in these accounts carry forward from year to year. All earnings on state accounts must be retained in those accounts and used for the same purposes.

(E) The department shall determine which projects are eligible projects and then select from among the eligible projects those qualified to receive financing assistance under this section. Priority in funding must be given to projects located in underdeveloped areas of the State.

(F) In selecting qualified projects, the department shall consider the projected feasibility of the project and the amount of financial risk. The department also may consider, but is not limited to, the following criteria in making its determination that an eligible project is a qualified project:

(1) local support of the project, expressed by resolutions by the governing bodies in the areas in which the project will be located;

(2) economic benefit of the project;

(3) readiness of the project to proceed;

(4) ability of the applicant to repay financial assistance obtained;

(5) financial or in‑kind contributions to the project;

(6) development status of the county in which the project is located; and

(7) whether the governing bodies of the county or the incorporated municipality in which the project is located provide to the department a resolution that makes a finding that the project is essential to economic development in the political subdivisions, or the department receives a resolution or certificate from the Coordinating Council for Economic Development that the project is essential to economic development in this State, or both, at the option of the department.

(G) Qualified borrowers may obtain financing assistance pursuant to this section through financing or grant agreements. Qualified borrowers entering into financing or grant agreements or issuing debt obligations may perform any acts, take any action, adopt any proceedings, or make and carry out any contracts or agreements with the department as may be agreed to by the department and any qualified borrower and necessary for effectuating the purposes of this section.

(H) In addition to the authorizations contained in this section, all other statutes or provisions permitting government units to borrow money and issue obligations including, but not limited to, the Revenue Bond Act for Utilities and the Revenue Bond Refinancing Act of 1937, may be utilized by any government unit in obtaining financing assistance from the department pursuant to this section. Notwithstanding the foregoing, obligations secured by ad valorem taxes may be issued by a government unit and purchased by the department or its agent without regard to any public bidding requirement.

(I) A qualified borrower may receive, apply, pledge, assign, and grant security interest in project revenues; and, in the case of a governmental unit, its project revenues, revenues derived from a special source or ad valorem taxes, to secure its obligations as provided in this section, and may fix, revise, charge, and collect fees, rates, rents, assessments, and other charges of general or special application for the operation or services of a qualified project, the system of which it is a part, and any other revenue producing facilities from which the qualified borrower derives project revenues, to meet its obligations under a financing agreement or to provide for the construction and improving of a qualified project.

(J) If a qualified borrower fails to collect and remit in full all amounts due under any related financing agreement, note, or other obligation, the department may, on or after the date these amounts are due, notify the State Treasurer who shall withhold all or a portion of the state funds and all funds administered by this State, its agencies, boards, and instrumentalities allotted or appropriated to the government unit and apply an amount necessary to the payment of the amount due; or in the case of a private entity, the department may pursue recovery pursuant to Chapter 56 of Title 12; or the department may pursue any other remedy provided by law.

(K) Nothing contained in this section mandates the withholding of funds allocated to a government unit or private entity which would violate contracts to which this State is a party, the requirements of federal law imposed on this State, or judgments of a court binding on this State.

(L) Notice, proceeding, or publication, except those required in this section, are not necessary to the performance of any act authorized in this section nor is any act of the department subject to any referendum.

(M) Following the close of each state fiscal year, the department shall submit an annual report of its activities pursuant to this section for the preceding year to the Governor and to the General Assembly.

(N) No funds under this section may be provided, promised, or allocated to any projects authorized hereunder before November 15, 2000.

(O) The department shall submit a quarterly report to the State Fiscal Accountability Authority, Revenue and Fiscal Affairs Office, and Executive Budget Office of all projects obligated for funding pursuant to this section.

HISTORY: 2000 Act No. 387, Part II, Section 69A.2, eff June 30 2000.

**SECTION 13‑1‑50.** Annual audit of department.

The department shall be audited by a certified public accountant or firm of certified public accountants once each year to be designated by the State Auditor. The department may undergo an Agreed Upon Procedures audit in lieu of having audited financial statements. The audit shall be in coordination with the State Auditor's Office and will be in accordance with generally accepted accounting principles and must comprise all financial records and controls. The audit must be completed by November first following the close of the fiscal year. The costs and expenses of the audit must be paid by the department out of its funds.

HISTORY: 1993 Act No. 181, Section 243, eff July 1, 1993; 2008 Act No. 353, Section 2, Pt 31B.1, eff July 1, 2008.

**SECTION 13‑1‑60.** Severability.

If a term or provision of a section of this chapter is found to be illegal or unenforceable, the remainder of this chapter nonetheless remains in full force and effect and the illegal or unenforceable term or provision is deleted and severed from this chapter.

HISTORY: 1993 Act No. 181, Section 243, eff July 1, 1993.

ARTICLE 3

Division of State Development

**SECTION 13‑1‑310.** Definitions.

The following terms, when used in this article, shall have the following meanings unless the context clearly requires otherwise:

(1) "Agency" means any state officer, department, board, commission, committee, institution, bureau, division, or other person or functional group that is authorized to exercise or that does exercise any executive or administrative function of government in the State; when the term "local agency" is used, it shall be construed to mean local political subdivisions of the State; when the term "federal agency" is used, it shall be construed to mean any agency of the government of the United States of America;

(2) "Director" means the Director for the Division of State Development.

(3) "Division" means the Division of State Development.

(4) "Secretary" means the Secretary of Commerce.

(5) "State" means the State of South Carolina.

HISTORY: 1993 Act No. 181, Section 244 eff July 1, 1993; 1994 Act No. 361, Section 4, eff May 3, 1994.

**SECTION 13‑1‑320.** Objectives of division.

The objectives of the division are to:

(1) conserve, restore, and develop the natural and physical, the human and social, and the economic and productive resources of the State;

(2) promote coordination of the functions and activities of state agencies and act as the official state liaison office between the state, federal, and local planning, research, and development agencies;

(3) promote a system of transportation for the State through development and expansion of the highway, railroad, port, waterway, and airport systems;

(4) promote and correlate state and local activity in planning public works projects;

(5) promote public interest in the development of the State through cooperation with public agencies, private enterprises, and charitable and social institutions;

(6) promote and encourage industrial development, private business and commercial enterprise, agricultural production, transportation, and the utilization and investment of capital within the State;

(7) assist the development of existing state and interstate trade, commerce, and markets for South Carolina goods and in the removal of barriers to the industrial, commercial, and agricultural development of the State;

(8) assist in ensuring stability in employment, increase the opportunities for employment of the citizens of the State, and devise ways and means to raise the living standards of the people of the State;

(9) advance the general welfare of the people.

HISTORY: 1993 Act No. 181, Section 244, eff July 1, 1993.

**SECTION 13‑1‑330.** Division made up of bureaus.

The division shall consist of a bureau of research, a bureau of planning, a bureau of development, and such other bureaus as the director may establish. Each bureau may be headed by a bureau chief selected on the basis of his technical and administrative qualifications and experience to perform the duties required by his position. The chief for the bureau of research shall be a person thoroughly familiar with the principles of, and experienced in, the methods and techniques of research and economics. The chief for the bureau of planning shall be an industrial engineer experienced in that type of work. The chief for the bureau of development shall be a person thoroughly familiar with the principles of, and experienced in, the methods and techniques of developing a program of advertising and salesmanship.

HISTORY: 1993 Act No. 181, Section 244, eff July 1, 1993.

**SECTION 13‑1‑340.** Director of division; duties, powers and responsibilities.

The director is vested with duties, powers, and responsibilities involved in accomplishing the division's objectives outlined in this article within the appropriations provided by the General Assembly. The director may:

(1) advise and make recommendations to the Governor and the General Assembly on matters concerning the division's objectives;

(2) cooperate with the operating agencies of the State in the development of plans;

(3) have access to the records and studies of each state agency pertaining to the division's objectives;

(4) conduct studies on his own initiative pertaining to the division's objectives and others at the request of the Governor, the General Assembly, or state or local agencies;

(5) make special studies on area problems or specific subjects, establish local agencies, and furnish staff or financial aid;

(6) stimulate and encourage local, state, and federal governmental agencies with similar and related objectives and purposes and cooperate with local, regional, and federal planning and development programs;

(7) publish and distribute the division's findings through written reports, brochures, magazine and newspaper articles, and other appropriate forms and use the radio, periodicals, and other recognized forms of advertising, personal interviews, exhibits, and displays in order that governmental agencies, corporations, and individual citizens may become acquainted with the development program of the State;

(8) advertise the advantages of the State for industrial, agricultural, and commercial development by paid publicity;

(9) provide information to and make contact with private business enterprises and local, state, and federal governmental agencies to acquaint them with industrial, agricultural, and commercial opportunities in the State and encourage the establishment of new or the expansion of existing industries and enterprises;

(10) provide advice upon request by local, state, and federal agencies, private citizens, and business and commercial enterprises upon matters of economic development, industrial and business expansion, and agricultural activity upon which his knowledge, sources of information, and findings and decisions qualify him to speak;

(11) accept gifts, grants, funds, and property to accomplish the division's objectives, administer and disburse gifts, grants, and funds, and dispose of property to counties, municipalities, and local agencies performing a public service or function which may disburse the gifts, grants, and funds or make the property available to eligible participants in a program established to perform and implement the public service or function subject to the approval of the State Fiscal Accountability Authority.

HISTORY: 1993 Act No. 181, Section 244, eff July 1, 1993.

**SECTION 13‑1‑350.** Director to assume duties of certain former boards, commissions, and councils.

The former State Planning Board, State Board of Housing, Building Council of South Carolina, South Carolina Commerce Development Board, South Carolina Intra‑Coastal Waterway Commission, South Carolina Board for Promotion of External Trade, and Natural Resources Commission and their successor the State Development Board having been abolished, the director shall have the following additional duties formerly imposed on such boards, commissions and councils:

(1) State Planning Board:

(a) to confer and cooperate with the executive, legislative and planning authorities of the United States and of neighboring states and of subdivisions thereof;

(b) to promote interest in the understanding of the problems of state planning; and

(c) to cooperate with the United States and any of its agencies in the planning, conservation, utilization and development of state resources and in the planning of its public works programs and to act, when so designated, as an agency of the United States, or of any agency thereof.

(2) State Board of Housing: to perform the duties imposed upon him under Title 31 of this Code;

(3) Building Council of South Carolina: to promulgate and recommend to the General Assembly of the State a building code for adoption;

(4) Commerce Development Board:

(a) to purchase, hold, use, lease, mortgage, sell, transfer, convey, assign, pledge or otherwise to acquire, encumber or dispose of any property, real, personal or mixed, or any estate or interest therein, including, but without limiting the foregoing, stock in any corporation;

(b) to employ attorneys upon such reasonable basis of compensation as may be agreed upon, or as he may determine, commensurate with the services rendered or to be rendered to the end that no excessive or unreasonable fees or compensation shall be allowed;

(c) to build, acquire, construct and maintain power houses and any and all structures, ways and means necessary, useful or customarily used and employed in the construction of highways, in the construction and operation of railroads and in the manufacture, generation and distribution of electricity and any and all other kinds of power, including power transmission lines, poles, telephone and telegraph lines, substations, transformers and generally all things used or useful in the manufacture, distribution and purchase of power and electricity; provided, that electric current produced shall be used by the director and that none of it shall be sold;

(d) to acquire or to build, construct, equip, maintain and operate one or more railroads with any motive power, one or more highways or other methods, means or ways of commerce or transportation or of communication, telegraph or telephone lines, electric lines, pipe lines, commissaries, houses, camps, lakes, fills, dams, reservoirs, ditches, drains, roads, tunnels, culverts, bridges, conduits, shops and depots and equipment; provided, that telegraph or telephone lines shall be used by the director and that no telegraph or telephone service shall be sold to the general public;

(e) to engage in the business of a common carrier of freight or passengers for hire;

(f) to build, construct, equip, maintain and operate, or cause the same to be done, a railroad or a highway connecting the existing lines of railroad at Walhalla, South Carolina, and at or near Maryville, Tennessee, or as near to such points as practicable and to do every act and thing necessary or proper to accomplish that result and to secure improvement of such existing lines connecting the same with the Atlantic seaboard;

(g) to transport goods, freight, mail, passengers and intelligence for hire and to fix and collect proper charges therefor;

(h) to construct or establish parks or playgrounds for the use, benefit, recreation and amusement of the people of this State under such rules and regulations and subject to such charges as it may establish, determine or fix, with all necessary or proper appurtenances, roadways, lakes, reservoirs, pipe lines, wires, buildings or other structures and equipment which it may from time to time deem desirable;

(i) to take such steps as may be proper to prevent and control soil erosion and floods in the areas served by it;

(j) to cooperate with the United States to promote the national defense;

(k) to develop and increase commerce, intrastate, interstate and foreign, by shortening and improving existing routes, by constructing new routes and facilities and by equipping, maintaining and operating or leasing the same, or causing it to be done, by procuring or endeavoring to procure a reduction in freight, passenger, power, light, water, telegraph and telephone rates and tolls and by any other means or method which shall tend so to do and securing to the people of this State the annual saving of large sums and an improvement in their living conditions and general welfare;

(l) to cooperate with the health authorities in the areas served by it to the end that the public health may be improved and disease and suffering reduced;

(m) to fix, alter, charge and collect tolls, freight and other charges for the use of the division's facilities or for the services rendered by or for any commodities furnished by it, at rates to be determined by the director, such rates to be at least sufficient to provide for payment of all expenses of the director under this subsubparagraph (4) of this section, the conservation, maintenance and operation of its facilities and properties, the payment of principal and interest on its notes, bonds and other evidences of indebtedness or obligation and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any of the division's notes, bonds or other evidences of indebtedness or obligation;

(n) to have the power of eminent domain;

(o) to acquire by purchase, gift, condemnation or in any other manner any lands, waters, water rights, riparian rights, flowage rights, rights of way, easements, licenses, franchises, engineering data, maps, construction plans or estimates or any other property of any kind, real, personal or mixed, necessary or useful in carrying out any of his powers;

(p) to borrow money, to make and issue negotiable notes, bonds and other evidences of indebtedness and to secure the payment of such obligations or any part thereof by mortgage, lien, pledge or deed of trust on any or all of the division's property, contracts, franchises or revenues and to make such agreements with the purchasers or holders of such notes, bonds or other evidences of indebtedness or with others in connection with any such notes, bonds or other evidences of indebtedness, whether issued or to be issued, as the director shall deem advisable and in general to provide for the security for such notes, bonds or other evidences of indebtedness and the rights of the holders thereof;

(q) to endorse or otherwise to guarantee the obligations of any corporation all of the voting stock of which the division may own or acquire;

(r) to mortgage, pledge, hypothecate or otherwise to encumber any or all of the division's property, real, personal or mixed, facilities or revenues as security for notes, bonds, evidences of indebtedness or other obligations;

(s) to borrow money from the United States or any corporation or agency created, designed or established by the United States;

(t) to exercise the powers and to do the things authorized by subsubparagraph (4) of this section either by and with his own efforts and resources or to procure or to cause the same to be done by the United States or any agency or instrumentality thereof, by any one or more of the states affected or their political subdivisions, agencies or instrumentalities, by any private corporation, association or individual, contractor or otherwise or by the joint efforts of any or all of them or by cooperation with any or all of them, having in mind that the primary objective to be achieved is the construction, maintenance and operation of the railroad, highways, lines of communication and other facilities authorized by this subsubparagraph, regardless of the particular method, manner or agency by or through which the same may be done, and to do any and all acts and things and to make any and all agreements or contracts necessary thereunto, including also the power to lease the whole or any part of the division's facilities or to contract or agree upon a particular method, manner or agency of or for the maintenance or operation of such facilities;

(u) to make, alter and repeal reasonable rules and regulations governing the use of the division's facilities and to fix and collect the charges, tolls, prices or rate of compensation it shall receive for the same, but nothing herein contained shall prevent the director, when in his opinion the public interest will best be served thereby and when the division's financial condition will permit, from allowing the use of its parks, places of amusement and recreation, roads, highways and the like, to be designated by the director from time to time, free of charge or at a merely nominal charge for the benefit of the people of this State;

(v) to sell or otherwise to dispose of any surplus property which the division may acquire and which the director may decide is not needed; and

(w) to have all additional powers, not inconsistent with this article, that are vested by law in common carriers of freight, passengers, electricity and intelligence for hire and in corporations generally.

(5) South Carolina Intra‑Coastal Waterway Commission: to perform the duties imposed upon it by Chapter 5 of Title 3 of this Code;

(6) Board for Promotion of External Trade:

(a) to compile surveys showing the nature and extent of the natural resources and of the manufactured products and raw materials found or produced in the State which may move in domestic or foreign commerce; and

(b) to determine the areas throughout the world where commodities and products of this State may find advantageous markets and secure perfection of arrangements between citizens of this State and producers and consumers in other areas whereby there may be carried on greater interchange of commerce.

(7) Natural Resources Commission:

(a) to select a label, have it copyrighted and registered in the United States copyright office, which label shall in the judgment of the director be used to advertise the chemical and other contents of food products grown in South Carolina or to advertise other articles;

(b) to promulgate and register the conditions upon which such label may be used and fix the charges for such use; and

(c) to promulgate information furnished by the South Carolina Research Laboratories and other educational institutions and such other information as has bearing upon value of South Carolina products.

HISTORY: 1993 Act No. 181, Section 244, eff July 1, 1993.

**SECTION 13‑1‑360.** Confidentiality of information.

Confidential information submitted to any agency as required by law shall not be published in any manner which will directly or indirectly reflect or damage the reputation or business activity of any individual or corporation concerned.

HISTORY: 1993 Act No. 181, Section 244, eff July 1, 1993.

**SECTION 13‑1‑370.** Advisory committee of the Division of State Development.

The director may, in his discretion establish an advisory committee of the Division of State Development (hereafter, in this section, the "advisory committee") which if established, would be comprised of twenty‑four citizens of the State to be appointed by the Governor upon the advice and consent of the Senate. One member must be appointed from each of the following two‑county areas:

1. Richland and Kershaw counties;

2. Spartanburg and Cherokee counties;

3. Laurens and Newberry counties;

4. Abbeville and Greenwood counties;

5. Berkeley and Charleston counties;

6. Oconee and Anderson counties;

7. Florence and Marion counties;

8. Greenville and Pickens counties;

9. Horry and Georgetown counties;

10. Union and York counties;

11. Lee and Darlington counties;

12. Marlboro and Dillon counties;

13. Chester and Fairfield counties;

14. Lancaster and Chesterfield counties;

15. Sumter and Calhoun counties;

16. Clarendon and Williamsburg counties;

17. Beaufort and Jasper counties;

18. Dorchester and Colleton counties;

19. Orangeburg and Bamberg counties;

20. Allendale and Hampton counties;

21. Aiken and Barnwell counties;

22. Lexington and Saluda counties;

23. Edgefield and McCormick counties.

The Governor shall appoint one member from the State at large who shall serve as chairman. The terms of the members are for a period of four years and until their successors are appointed and qualify. Terms for all members commence on July first of the year of appointment. Of the members initially appointed from the two‑county areas, the Governor shall appoint one member from each of the following counties for a term of two years: Kershaw, Cherokee, Newberry, Greenwood, Charleston, Anderson, Marion, Pickens, Georgetown, York, Darlington, and Dillon, and the Governor shall appoint one member from each of the following counties for a term of four years: Fairfield, Chesterfield, Calhoun, Williamsburg, Jasper, Colleton, Bamberg, Hampton, Barnwell, Lexington, and McCormick. Upon the expiration of the initial terms of the members appointed from the two‑county areas, the Governor shall rotate the appointment of these members between the counties in each of the two‑county areas. The advisory committee may select other officers from its membership to serve for terms designated by it. Vacancies must be filled in the manner of the original appointments for the unexpired portions of the terms. The members of the advisory committee must be paid the usual mileage and subsistence as is provided by law for members of state boards, commissions, and committees. The advisory committee must meet four times a year, and may meet more often if the chairman considers it necessary or if ten members request the chairman to call a meeting, and the director approves such additional meetings. The advisory committee may not meet at any location outside the boundaries of South Carolina. The advisory committee shall advise and consult with the director on the following matters:

(a) the condition of and prospects for economic development in the State ‑ particularly in the rural areas;

(b) the fostering of a close working relationship between the primarily rural, or primarily agricultural, counties of the State and the counties which are primarily nonrural or nonagricultural;

(c) the identification of problems facing smaller rural counties and of solutions to those problems;

(d) having input to the director regarding industrial prospects throughout the State; and

(e) any other matter which the director considers necessary to assist the director, in the way of consultation or advice, in carrying out any of the director's duties or functions under this article.

HISTORY: 1993 Act No. 181, Section 244, eff July 1, 1993.

**SECTION 13‑1‑380.** Recycling Market Development Advisory Council.

(A) Notwithstanding the provisions of Section 13‑1‑40, there is established within the division a Recycling Market Development Advisory Council to assist in the development of markets for recovered materials and products with recycled content in this State.

(B) The members of the advisory council shall be appointed not later than ninety days after this article is effective.

(C) The advisory council shall consist of fourteen members to be appointed by the Governor to include:

(1) one member shall represent the division;

(2) one member shall represent county governments;

(3) one member shall represent municipalities;

(4) one member shall represent the solid waste collection and disposal industry;

(5) one member shall represent the existing recycling industry;

(6) one member shall represent the glass industry;

(7) one member shall represent the paper industry;

(8) one member shall represent the aluminum industry;

(9) one member shall represent the plastics industry;

(10) one member shall represent the tire industry;

(11) one member shall represent the general public;

(12) one member shall represent the oil industry;

(13) one member shall represent the scrap metal recycling industry; and

(14) one member shall represent higher education research institutions.

(D) Each member of the advisory council shall serve a two‑year term beginning on the date of his appointment and shall serve until a successor is appointed and qualified. Members shall serve at the pleasure of their appointing authority and shall receive the usual mileage, per diem, and subsistence provided by law for members of boards, committees, and commissions. Until sufficient funds have accumulated in the Solid Waste Management Trust Fund to cover the advisory council's expenses, the appointing authorities shall provide the mileage, per diem, and subsistence for their respective appointees. Any other expenses of the advisory council shall be shared equally by the appointing authorities until the trust fund has sufficient funds to cover the expenses.

(E) The chairman shall be designated by the Secretary of Commerce and the advisory council shall select its own vice‑chairman. The advisory council shall adopt operating procedures and shall meet on the call of the chairman or of a majority of the members. Members shall promulgate regulations concerning meeting attendance. A majority of the members shall constitute a quorum to do business. The division shall provide the necessary staff and administrative facilities and services to the advisory council. The Department of Health and Environmental Control shall provide technical assistance to the council at the request of the chairman or of the vice‑chairman, or by majority vote of the advisory council.

(F) Not later than fifteen months after this article is effective, the council shall provide to the Governor and to the General Assembly an initial report which shall include, at a minimum, the following:

(1) a description and analysis of this state's existing recycling industry;

(2) an analysis of the projected long‑term capacity of existing markets to absorb materials generated by source separation, recovery, or recycling programs;

(3) an analysis of potential markets in this State, in other states, or in foreign countries for recovered materials and products with recycled content from this State;

(4) an analysis of institutional, economic, and technical barriers to the use of recovered materials and products with recycled content;

(5) recommendations for actions which may be taken to increase demand for source separated, recovered, or recycled materials or products;

(6) recommendations for actions which may be taken to increase the incentives for private individuals and for business and industry to consume or export recovered materials and products with recycled content;

(7) an analysis of the compatibility of recycling with solid waste treatment or disposal methods and recommendations on the feasibility of the implementation of mechanisms for cooperative marketing of recyclable materials;

(8) recommendations on categories of materials which should be recovered, given existing and potential markets for such materials;

(9) recommendations for a public education program to be implemented by the Office of Solid Waste Reduction and Recycling within the department to provide information to the public and to business and industry on the benefits of source separation, recovery, and recycling and on the availability of recovered materials or products with recycled content;

(10) a study of methods of and cost effectiveness of source separation and recycling of recovered materials;

(11) a study of packaging reduction; and

(12) a study of the design of products at the primary stage of development to promote recyclability.

(G) Following its initial report, the council shall submit to the Governor and to the General Assembly by the end of each calendar year an annual report on recycling activities in this State which shall, at a minimum, include the following:

(1) any revisions which the council determines are necessary to its initial report;

(2) a description and analysis of the amounts and types of solid waste materials recovered or recycled in this State during the preceding year;

(3) recommendations regarding materials which should be added to or deleted from source separation, recovery, and recycling programs; and

(4) any other recommendations, including tax incentives, to facilitate the development of markets for recovered materials or products in this State.

HISTORY: 1993 Act No. 181, Section 244, eff July 1, 1993; 1994 Act No. 361, Section 8, eff May 3, 1994.

ARTICLE 5

Division of Savannah Valley Development

**SECTION 13‑1‑610.** Definitions.

The following terms, when used in this article, shall have the following meanings unless the context clearly requires otherwise:

(1) "Director" means the Director for the Division of Savannah Valley Development.

(2) "Division" means the Division of Savannah Valley Development.

(3) "Secretary" means the Secretary of Commerce.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993; 1994 Act No. 361, Section 5, eff May 3, 1994.

**SECTION 13‑1‑620.** Rights and powers of director.

The director has all the rights and powers necessary or convenient to manage the business and affairs of the division and to take action as he considers advisable, necessary, or convenient in carrying out his powers, including, but not limited to, the following rights and powers to:

(a) have perpetual succession;

(b) sue and be sued;

(c) adopt, use, and alter a corporate seal;

(d) adopt and amend bylaws for regulation of the division's affairs consistent with this article;

(e) notwithstanding any provision of law or regulation to the contrary, and in accordance with its own procurement procedures and regulations as approved by the State Fiscal Accountability Authority, acquire, purchase, hold, use, improve, manage, lease, mortgage, pledge, sell, transfer, and dispose of any property, real, personal, or mixed, or any interest in any property, or revenues of the authority, including as security for notes, bonds, evidences of indebtedness, or other obligations of the authority. The authority is subject to the provisions of Title 11, Chapter 35. The authority has no power to pledge the credit and the taxing power of the State or any of its political subdivisions;

(f) receive contributions, donations, and payments and to invest and disburse the division's funds;

(g) make inquiry into the status of, and plans for, the development of the J. Strom Thurmond project and the Richard B. Russell project by the United States government, by the State of Georgia, or by any other agency or instrumentality;

(h) encourage, assist, promote, and cooperate in the development of the Savannah River and the streams, canals, or watercourses now or at a later time connected to or flowing into the river and to appear on behalf of the State before any agency, department, or commission of this State, of the United States, or of any other state in furtherance of the development or of any matter connected with the development or related to the development;

(i) negotiate agreements, accords, or compacts on behalf of and in the name of the State with the State of Georgia or the United States, or both, with any agency, department, or commission of either or both, or with any other state or any agency, department, or commission of the other state, relating to the development of the Savannah River and the development of the streams, canals, or watercourses now or at a later time connected to or flowing into the river, and particularly in reference to joint or concurrent action in the furtherance of agreements, accords, or contracts. Interstate compacts made by the division are subject to approval by concurrent resolution of the General Assembly;

(j) act as a regional development agency of the State to receive, purchase, hold title to, and to manage any real property in the division's jurisdiction acquired by release of surplus real property, by purchase, by donation, by lease, or by exchange and to develop and promote the development of the land for recreational, transportation, residential, commercial, and industrial purposes, both public and private, and to lease, sublease, or convey title in fee simple to the real property as provided in the bylaws of the division. The division shall retain, carry forward, or expend any proceeds derived from the sale, lease, rental, or other use of real and personal property under the division's exclusive jurisdiction. The proceeds shall only be used in the development and the promotion of the division as provided by this article and for the purposes authorized by this article;

(k) promulgate regulations governing the use of or doing business on the division's property or facilities, including the adoption of safety standards and insurance coverage or proof of financial responsibility, including, but not limited to, providing for the licensing of persons, firms, or corporations using or doing business on such property or facilities, and for license fees to cover the expense thereof;

(l) borrow money, make and issue notes, bonds, and other evidences of indebtedness, including refunding and advanced refunding notes and bonds, of the division; to secure the payment of the obligations or any part by mortgage, lien, pledge, or deed of trust on any of its property, contracts, franchises, or revenues, including the proceeds of any refunding and advanced refunding notes, bonds, and other evidences of indebtedness and the investments in which proceeds are invested and the earnings on and income from the investments; to invest its monies, including without limitation its revenues and proceeds of the notes, bonds, or other evidences of indebtedness, in obligations of, or obligations the principal of and interest on which are guaranteed by or are fully secured by contracts with, the United States, in obligations of any agency, instrumentality, or corporation which has been or may at a later time be created by or pursuant to an act of the United States Congress as an agency, instrumentality, or corporation, in direct and general obligations of this State, and in certificates of deposit issued by any bank, trust company, or national banking association; to make agreements with the purchasers or holders of the notes, bonds, or other evidences of indebtedness or with others in connection with any notes, bonds, or other evidences of indebtedness, whether issued or to be issued, as the division considers advisable; and to provide for the security for the notes, bonds, or other evidences of indebtedness and the rights of the holders of the notes, bonds, or other evidences of indebtedness. In the exercise of the powers granted in this section to issue advanced refunding notes, bonds, or other evidences of indebtedness the director may, but is not required to, avail himself of or comply with any of the provisions of Chapter 21 of Title 11. The director, when investing in certificates of deposit, shall invest in certificates of deposit issued by institutions authorized to do business in this State if the institutions offer terms which, in the opinion of the director, are equal to or better than those offered by other institutions;

(m) loan the proceeds of notes, bonds, or other evidences of indebtedness to a person, corporation, or partnership to construct, acquire, improve, or expand the projects described in Section 13‑1‑640;

(n) make contracts, including service contracts with a person, corporation, or partnership, to provide the services provided in Section 13‑1‑640, and to execute all instruments necessary or convenient for the carrying out of business

(o) for the acquiring of rights‑of‑way and property necessary for the accomplishment of its duties and purposes, the division may purchase them by negotiation or may condemn them, and should it elect to exercise the right of eminent domain, condemnation actions must be in the name of the division. The power of eminent domain applies to all property of private persons or corporations and also to property already devoted to public use in Abbeville and McCormick counties;

(p) employ and dismiss, at the will and pleasure of the authority, those employees, consultants, and other providers of services as the authority considers necessary and to fix and to pay their compensation; provided, that the state agency head salary review process and the rules and guidelines thereunder applies to the executive director of the authority. As of July 1, 1993, the compensation of the executive director of the authority must be re‑evaluated by the State Agency Head Salary Commission in order that the appropriate adjustments be made. Except as provided above, employees of the authority or an entity established pursuant to Section 13‑9‑190 are not considered state employees except for eligibility for participation in the State Retirement System and the State Health Insurance Group Plans and pursuant to Chapter 78 of Title 15; provided, however, that employees of the authority are subject to the state uniform classification and compensation system until such time as the authority is self‑supporting. Except as provided above, the provisions of Chapter 11 of Title 8 and Article 5, Chapter 17 of Title 8 do not apply to the authority. The authority is responsible for complying with the other state and federal laws covering employers. The authority may contract with the Division of Human Resources Management of the Department of Administration to establish a comprehensive human resource management program.

(q) fix, alter, charge, and collect tolls, fees, rents, charges, and assessments for the use of the facilities of or for the services rendered by, the division; these rates must be at least sufficient to provide for payment of all expenses of the division, the conservation, maintenance, and operation of its facilities and properties, the payment of principal and interest on its notes, bonds, and other evidences of indebtedness or obligation, and to fulfill the terms and provisions of any agreements made with the purchasers and holders of these notes, bonds, or other evidences of indebtedness or obligation.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993; 1993 Act No. 164, Part II, Section 52, eff June 21, 1993.

Code Commissioner's Note

1993 Act No. 164, Part II, Section 52, amended Section 13‑9‑30, effective June 21, 1993. Subsequently, 1993 Act No. 181, Section 1617(A), repealed Section 13‑9‑30, effective July 1, 1993, and by Section 245, enacted Section 13‑1‑620, containing substantially the same provisions as former Section 13‑9‑30. At the direction of the Code Commissioner, the amendment to Section 13‑9‑30 by 1993 Act No. 164, Part II, Section 52, has been executed to Section 13‑1‑620, pursuant to the direction of 1993 Act No. 181, Section 1614.

**SECTION 13‑1‑630.** Area of director's powers.

The director may exercise any of the powers and duties conveyed under Section 13‑1‑620 in the entire area of a county or portion of a county which borders the Savannah River or is within the Savannah River Basin.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑640.** Issuance of revenue bonds to fund projects.

In furtherance of its purposes, the division may issue revenue bonds, the interest on which may or may not be excludable from gross income for federal income tax purposes, for the purpose of raising funds needed from time to time for the financing or refinancing, in whole or in part, the acquisition, construction, equipment, maintenance, and operation of a facility, building structure, or any other matter or thing which the division is authorized to acquire, construct, equip, maintain, or operate. In connection with the issuance of bonds, the division may enter into an agreement with a company to construct, operate, maintain, and improve a project, and the division may enter into a financing agreement with the company prescribing the terms and conditions of the payments to be made by the company to the division, or its assignee, to meet the payments that become due on bonds.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑650.** Executive order of director required for issuance of revenue bonds; contents of order.

Revenue bonds issued under this article for any project described in Section 13‑1‑640 must be authorized by executive order of the director. The director's executive order may contain provisions which are a part of the contract between the division and the several holders of the bonds as to:

(a) the custody, security, use, expenditure, or application of the proceeds of the bonds;

(b) the acquisition, construction, and completion of any project for which the bonds are issued;

(c) the use, regulation, operation, maintenance, insurance, or disposition of the project for which the bonds are issued, or any restrictions on the exercise of the powers of the division to dispose of or limit or regulate the use of the project;

(d) the payment of the principal of or interest on the bonds and the sources and methods of payment, the rank or priority of any bonds as to any lien or security, or the acceleration of the maturity of any bonds;

(e) the use and disposition of the revenues derived or to be derived from the operation of any project;

(f) the pledging, setting aside, depositing, or entrusting of the revenues from which the bonds are made payable to secure the payment of the principal of and interest on the bonds or the payment of expenses of operation and maintenance of the project;

(g) the setting aside of revenues, reserves, or sinking funds and the source, custody, security, regulation, and disposition of the revenues, reserves, or sinking funds;

(h) the determination of the definition of revenues or of the expenses of operation and maintenance of the project for which the bonds are issued;

(i) the rentals, fees, or other charges derived from the use of the project and the fixing, establishing, collection, and enforcement of the rentals, fees, or other charges, the amount or amounts of revenues to be produced by the rentals, fees, or other charges, and the disposition and application of the amounts charged or collected;

(j) limitations on the issuance of additional bonds or any other obligations or the incurrence of indebtedness payable from the same revenues from which the bonds are payable;

(k) rules to ensure the use of the project by the public or private sector to the maximum extent to which the project is capable of serving the public or private sector;

(l) any other matter or course of conduct which, by recital in the resolution authorizing the bonds, is declared to further secure the payment of the principal of or interest on the bonds.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑660.** Specifics of revenue bonds and their issuance.

The bonds may be issued in one or more series, may bear a date, may mature at a time not exceeding forty years from their respective dates, may bear interest at the rate or rates per annum as approved by the State Fiscal Accountability Authority, may be payable in a medium of payment and at a place, may be in a denomination, may be in a form, either coupon or registered, may carry registration privileges, may be subject to terms of redemption before maturity, with or without premium, and may contain terms, covenants, and conditions as the executive order authorizing the issuance of the bonds may provide. The interest rate on bonds issued by the division, the proceeds of which are loaned to a company pursuant to a financing agreement to construct or acquire a project authorized under Section 13‑1‑640, are not subject to approval by the State Fiscal Accountability Authority. The bonds are fully negotiable within the meaning of and for the purposes of the Uniform Commercial Code.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑670.** Principal and interest on bonds exempt from taxation.

The principal of and interest on bonds issued under this article are exempt from taxation, as provided in Section 12‑1‑60. All security agreements, indentures, and financing agreements made pursuant to the provisions of this article are exempt from state stamp and transfer taxes.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑680.** Approval of State Fiscal Accountability Authority as prerequisite to issuance of bonds.

No bonds may be issued pursuant to the provisions of this article until the proposal of the director to issue the bonds receives the approval of the State Fiscal Accountability Authority. When the director proposes to issue bonds, he shall file a proposal with the State Fiscal Accountability Authority setting forth:

(a) a brief description of the project proposed to be undertaken and its anticipated effect upon the economy of the area in which the project is to be located;

(b) a reasonable estimate of the cost of the project;

(c) a general summary of the terms and conditions of any financing agreement and security agreement. Upon the filing of the proposal the State Fiscal Accountability Authority or Department of Administration, as applicable, shall, as soon as practicable, make an independent investigation, as it considers necessary or appropriate, and if it finds that the project is intended to promote the purposes of this article, it may approve the project. At any time following the approval, the division may proceed with the acquisition and financing of the project. If the proceeds of the bonds are to be made available to a company to construct a project, as provided in Section 13‑1‑640, notice of the approval of any project by the State Fiscal Accountability Authority or Department of Administration, as applicable, must be published at least once by the division in a newspaper having general circulation in the county where the project is to be located. Any interested party may, within twenty days after the date of the publication of notice, but not after the twenty days, challenge the validity of the approval in the court of common pleas in the county where the project is to be located.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑690.** Signature on bonds.

The bonds must be signed in the name of the director by the manual or facsimile signature of the director. Interest coupons attached to the bonds must be signed by the facsimile signature of the director. The bonds may be issued notwithstanding that the director signing them or whose facsimile signature appears on the bonds or the coupons has ceased to hold office at the time of issue or at the time of the delivery of the bonds to the purchaser.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑700.** Manner of sale of bonds.

The bonds must be sold at public or private sale upon terms and conditions as the State Fiscal Accountability Authority considers advisable.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑710.** Report to State Treasurer following issuance of bonds.

The deputy director shall file with the State Treasurer within thirty days from the date of their issuance a complete description of all obligations entered into by the division with the rates of interest, maturity dates, annual payments, and all pertinent data.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑720.** Enforceability of orders, covenants, and agreements related to bonds.

All provisions of an executive order authorizing the issuance of the bonds in accordance with this article and any covenants and agreements constitute legally binding contracts between the division and the several holders of the bonds, regardless of the time of issuance of the bonds, and are enforceable by any holder by mandamus or other appropriate action, suit, or proceeding at law or in equity in any court of competent jurisdiction.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑730.** Bonds to constitute limited obligations of division; payment on bonds.

The bonds authorized by the article are limited obligations of the division. The principal and interest are payable solely out of the revenues derived by the division, including any revenues that may be derived by the division pursuant to the financing agreement with respect to the project which the bonds are issued to finance. The bonds are an indebtedness payable solely from a revenue producing source or from a special source which does not include revenues from any tax or license. The bonds do not constitute nor give rise to a pecuniary liability of the division, the department, the State, or any political subdivision of the State, or to a charge against the general credit of the division, the department, the State, or any political subdivision of the State or taxing powers of the State, or any political subdivision of the State, and this fact must be plainly stated on the face of each bond. The principal of and interest on any bonds issued under this article must be secured by a pledge of the revenues from which the bonds are payable, may be secured by a security agreement, including a mortgage or any property given as security pursuant to a financing agreement, and may be additionally secured by a pledge of the financing agreement with respect to the project. In making any agreements or provisions, the division does not have the power to obligate itself or the department with respect to any project for which the proceeds of bonds issued under this article have been loaned to a company, except with respect to the project and the application of the revenues from the financing agreement, and does not have the power to incur a pecuniary liability or a charge upon its general credit or upon the general credit of the department. The trustee under any security agreement or indenture, or any depository specified by the security agreement or indenture, may be any person or corporation as the division designates, notwithstanding that the trustee may be a nonresident of this State or incorporated under the laws of the United States or the laws of other states.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑740.** Investment of funds.

All funds of the division must be invested by the State Treasurer and, upon approval and designation by the State Treasurer of a financial institution or institutions, all funds must be deposited in such institutions by the division in accordance with policies established by the director. Funds of the division must be paid out only upon warrants issued in accordance with policies established by the director. No warrants may be drawn or issued disbursing any of the funds of the division except for a purpose authorized by this article. The net earnings of the division, beyond that necessary for retirement of its bonds or other obligations or to implement the purposes of this article, may not inure to the benefit of any person other than the division. Upon termination of the existence of the division, title to all property, real and personal, owned by it, including net earnings, vests in the State.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑750.** Carryover of funds to subsequent fiscal years.

The division shall retain unexpended funds at the close of the fiscal year of the State regardless of the source of the funds and expend the funds in subsequent fiscal years.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑760.** Determinations of director as prerequisites to undertaking of projects; financing agreements.

(A) Prior to undertaking any project authorized by Section 13‑1‑640, the director shall make a determination:

(1) that the project will serve the purposes of this article;

(2) that the project is anticipated to benefit the general public welfare of the locality by providing services, employment, recreation, or other public benefits not otherwise provided locally;

(3) that the project will give rise to no pecuniary liability of the division, the department, the State, or any political subdivision of the State, or charge against the general credit of the division, the department, the State, or any political subdivision of the State, or taxing power of the State or any political subdivision of the State if the proceeds are loaned by the division to a company to construct a project;

(4) as to the amount of bonds required to finance the project;

(5) as to the amount necessary in each year to pay the principal of and the interest on the bonds proposed to be issued to finance the project;

(6) as to the amount necessary to be paid each year into any reserve funds which the director may consider advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the project. The determinations of the director must be set forth in the proceedings under which the proposed bonds are to be issued.

(B) Every financing agreement between the division and a company with respect to a project shall contain an agreement obligating the company to complete the project if the proceeds of the bonds prove insufficient, and obligating the company to pay an amount under the terms of a financing agreement, which, upon the basis of the determinations made by the director, is sufficient:

(1) to pay the principal of and interest on the bonds issued to finance the project;

(2) to build up and maintain any reserves considered by the director to be advisable in connection with the project;

(3) to pay the costs of maintaining the project in good repair and keeping it properly insured, unless the financing agreement obligates the company to pay for the maintenance and insurance of the project.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑770.** Application of proceeds from sale of bonds; what constitutes cost of acquiring project.

The proceeds from the sale of any bonds issued under division of this article may be applied only for the purpose for which the bonds were issued, except any premium and accrued interest received in any sale must be applied to the payment of the principal of or the interest on the bonds sold, and if for any reason any portion of the proceeds are not needed for the purpose for which the bonds were issued, that portion of the proceeds must be applied to the payment of the principal of or the interest on the bonds. The cost of acquiring any project includes the following:

(a) the actual cost of the construction of any part of a project, including architects', engineers', and attorneys' fees;

(b) the purchase price of any part of a project that may be acquired by purchase;

(c) all expenses in connection with the authorization, sale, and issuance of the bonds to finance the acquisition;

(d) the interest on the bonds for a reasonable time prior to construction and for not exceeding one year after completion of the construction.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑780.** Promulgation of regulations.

The regulations of the division must be promulgated in accordance with Chapter 23 of Title 1.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑790.** Establishment of corporations by director.

The director may establish profit or not‑for‑profit corporations as he considers necessary to carry out the purposes of this article. Officials or employees of the division may act as officials or employees of the corporations created pursuant to this section without additional compensation. A corporation created pursuant to this section is considered a "public procurement unit" for purposes of Article 19, Chapter 35 of Title 11. The division may make grants or loans to, or make guarantees for, the benefit of a not‑for‑profit corporation which the division has caused to be formed whose articles of incorporation require that its directors be elected by members of the division and all assets of which, upon dissolution, must be distributed to the division if it is in existence or, if it is not in existence, then to this State. These grants, loans, or guarantees may be made upon a determination by the division that the receiving not‑for‑profit corporation is able to carry out the purposes of this article and on the terms and conditions imposed by the division. A guarantee made by the division does not create an obligation of the State or its political subdivisions and is not a grant or loan of the credit of the State or a political subdivision. A guarantee issued by the division must be a special obligation of the division. Neither this State nor any political subdivision is liable on a guarantee nor may they be payable out of any funds other than those of the division and a guarantee issued by the division must contain on its face a statement to that effect.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑800.** Payment in lieu of property taxes on property of division.

The property of the division is not subject to any taxes or assessments, but the division shall negotiate a payment in lieu of taxes with the appropriate taxing authorities.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

**SECTION 13‑1‑810.** Division's status as "agency".

Notwithstanding any provision of law or regulation, the division continues to be an "agency" for purposes of Chapter 78 of Title 15; however, the division is not considered to be an "agency" or "state agency" or any other form of state institution for purposes of Sections 2‑7‑65 and 2‑57‑60.

HISTORY: 1993 Act No. 181, Section 245, eff July 1, 1993.

ARTICLE 6

Aeronautics Commission

**SECTION 13‑1‑1000.** Definitions.

Notwithstanding any other provision of law, the following terms, when used in this article, have the following meanings unless the context clearly requires otherwise:

(1) "Authority" means the State Fiscal Accountability Authority.

(2) "Executive director" means the Executive Director for the Division of Aeronautics.

(3) "Division" means the Division of Aeronautics.

(4) "Commission" means the Aeronautics Commission.

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005); 2012 Act No. 270, Section 12, eff June 18, 2012.

**SECTION 13‑1‑1010.** Commission created; purpose; purchase and sale of aeronautics assets.

Notwithstanding any other provision of law, the Aeronautics Commission is hereby created within the State Fiscal Accountability Authority. The State Fiscal Accountability Authority shall provide administrative support functions to the division. The commission shall oversee the operation of the division as the division's governing body. The Joint Bond Review Committee must review, prior to approval by the Aeronautics Commission, purchases or sales of any aeronautics assets, the value of which exceeds fifty thousand dollars. There may be no purchase or sale of any aeronautics assets without the approval of the commission.

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005); 2012 Act No. 270, Section 13, eff June 18, 2012.

**SECTION 13‑1‑1020.** Commission districts; election and appointment of members.

Notwithstanding any other provision of law, the congressional districts of this State are constituted and created commission districts of the State, designated by numbers corresponding to the number of the respective congressional districts. The commission shall be composed of one member from each district elected by the delegations of the congressional district and one member appointed by the Governor, upon the advice and consent of the Senate, from the State at large. The elections or appointments shall take into account race and gender so as to represent, to the greatest extent possible, all segments of the population of the State and shall comply with the provisions of Chapter 13, Title 8. However, consideration of these factors in making an appointment or in an election does not create a cause of action or basis for an employee grievance for a person appointed or elected or for a person who fails to be appointed or elected.

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005).

**SECTION 13‑1‑1030.** County‑commission district overlap; consecutive terms; two commissioners from same county.

(A) Notwithstanding any other provision of law, a county that is divided among two or more commission districts, for purposes of electing a commission member, is considered to be in the district which contains the largest number of residents from that county.

(B) Notwithstanding any other provision of law, no county within a commission district shall have a resident commission member for more than one consecutive term and in no event shall any two persons from the same county serve as a commission member simultaneously.

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005).

**SECTION 13‑1‑1040.** Delegations to elect commissioner from district; organization of delegation; certification and issuance of commission.

Notwithstanding any other provision of law, legislators residing in the congressional district shall meet upon written call of a majority of the members of the delegation of each district at a time and place to be designated in the call for the purpose of electing a commissioner to represent the district. A majority present, either in person or by written proxy, of the delegation from a given congressional district constitutes a quorum for the purpose of electing a district commissioner. No person may be elected commissioner who fails to receive a majority vote of the members of the delegation.

The delegation must be organized by the election of a chairman and a secretary, and the delegations of each congressional district shall adopt rules they consider proper to govern the election. Any absentee may vote by written proxy. When the election is completed, the chairman and the secretary of the delegation shall immediately transmit the name of the person elected to the Secretary of State who shall issue to the person after he has taken the usual oath of office, a certificate of election as commissioner. The Governor then shall issue a commission to the person, and pending the issuance of the commission, the certificate of election is sufficient warrant to the person to perform all of the duties and functions of his office as commissioner. Each commissioner shall serve until his successor is elected and qualified.

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005).

**SECTION 13‑1‑1050.** Terms of commission members; vacancies; forfeiture of office; at‑large commission member as chairman.

(A) Notwithstanding any other provision of law, beginning February 15, 2005, commissioners must be elected by the legislative delegation of each congressional district. For the purposes of electing a commission member, a legislator shall vote only in the congressional district in which he resides. All commission members must serve for a term of office of four years that expires on February fifteenth of the appropriate year. Commissioners shall continue to serve until their successors are elected and qualify, provided that a commissioner may only serve until their successors are elected and qualify, and provided that a commissioner may only serve in a hold‑over capacity for a period not to exceed six months. Any vacancy occurring in the office of commissioner must be filled by election in the manner provided in this article for the unexpired term only. No person is eligible to serve as a commission member who is not a resident of that district at the time of his appointment, except that the at‑large commission member may be appointed from any county in the State regardless of whether another commissioner is serving from that county. Failure by a commission member to maintain residency in the district for which he is elected shall result in the forfeiture of his office. The at‑large commission member, upon confirmation by the Senate, shall serve as chairman of the commission.

(B) The terms of the initial members of the commission appointed from congressional district are as follows:

(1) commission members appointed to represent congressional district one and two, two years;

(2) commission members appointed to represent congressional district three, four, and seven, three years;

(3) commission members appointed to represent congressional district five and six, four years.

(C) The at‑large commissioner shall serve at the pleasure of the Governor.

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005); 2012 Act No. 270, Section 11, eff June 18, 2012; 2012 Act No. 279, Section 6, eff June 26, 2012.

Editor's Note

2012 Act No. 279, Section 33, provides as follows:

"Due to the congressional redistricting, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires. Further, the inability to hold an election or to make an appointment due to judicial review of the congressional districts does not constitute a vacancy."

**SECTION 13‑1‑1060.** Oath of office.

Notwithstanding any other provision of law, each voting commission member, within thirty days after his election or appointment, and before entering upon the discharge of the duties of his office, shall take, subscribe, and file with the Secretary of State the oath of office prescribed by the Constitution of the State.

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005).

**SECTION 13‑1‑1070.** Official seal; adoption of rules and procedures; reimbursement for official expenses.

(A) The commission may adopt an official seal for use on official documents of the division.

(B) The commission shall adopt its own rules and procedures and may select additional officers to serve terms designated by the commission.

(C) Commissioners must be reimbursed for official expenses as provided by law for members of state boards and commissions as established in the annual general appropriations act.

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005).

**SECTION 13‑1‑1080.** Appointment of executive director.

Notwithstanding any other provision of law, the executive director shall be appointed in accordance with the following procedures:

(A)(1) The commission shall nominate no more than one qualified candidate for the Governor to consider for appointment as executive director. In order to be nominated, a candidate must meet the minimum requirements as provided in Section 13‑1‑1090.

(2) If the Governor rejects a person nominated by the commission for the position of executive director, the commission must nominate another candidate for the Governor to consider until such time as the Governor makes an appointment.

(3) In the case of a vacancy in the position of executive director for any reason, the name of a nominee for the executive director's successor must be submitted by the commission to the Governor.

(4) The appointment must comply with the provisions contained in Chapter 13, Title 8.

(B) The executive director shall serve at the pleasure of the commission and be appointed as provided in this section.

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005).

**SECTION 13‑1‑1090.** Qualifications for commission chairman and members.

Notwithstanding any other provision of law, individuals serving on the commission must meet the following minimum qualifications to be qualified:

(1) the commission chairman must have experience in the fields of business, general aviation, and airport management;

(2) all other members of the commission must have a proven record of public and community service, and experience in the fields of business and aviation. Additionally, each member must meet at least two of the following criteria:

(a) general aviation experience;

(b) airport or fixed based operator (FBO) management experience;

(c) aviation service provider experience;

(d) previous service as a state or regional airport commissioner;

(e) legal experience; or

(f) active involvement in a recognized aviation association.

HISTORY: 2005 Act No. 11, Section 1.B, eff upon approval (became law without the Governor's signature on January 13, 2005).

ARTICLE 7

Division of Aeronautics

**SECTION 13‑1‑1110.** Organization and objectives of division.

The organization and objectives of the division are stated in Chapters 1 through 9 of Title 55.

HISTORY: 1993 Act No. 181, Section 246, eff July 1, 1993.

ARTICLE 9

Division of Public Railways

**SECTION 13‑1‑1310.** Division of Public Railways created.

There is created a Division of Public Railways within the Department of Commerce which must be governed by the Secretary of Commerce. The accounting and personnel procedures of the division shall be maintained so that the division is a lump sum division of the department.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993; 1994 Act No. 361, Section 8, eff May 3, 1994.

**SECTION 13‑1‑1320.** Definitions.

For the purposes of this article, the following words and terms are defined as follows:

(1) "Division", unless otherwise indicated, means the Division of Public Railways within the Department of Commerce.

(2) "Secretary", unless otherwise indicated, means the executive and administrative head of the Department of Commerce or his designee.

(3) "Director or designee" means the person or persons appointed by the secretary, serving at his will and pleasure as his designee, to supervise and carry out the functions and duties of the Public Railways Division as provided for by law.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993; 1994 Act No. 361, Section 6, eff May 3, 1994.

**SECTION 13‑1‑1330.** Powers and duties of director of division.

The director shall have the following powers and duties in regard to the Division of Public Railways:

(1) the power of a body corporate, including the power to sue and be sued, to make contracts and to adopt and use a common seal and alter it as may be deemed expedient;

(2) to acquire by purchase or donation and to own, rent, lease, mortgage, and dispose of such property, real or personal, as he may deem proper to carry out the purposes and provisions of this article, all or any of them;

(3) to operate, maintain, and control the tracks and equipment transferred to the division by the South Carolina State Ports Authority, or any other person, and be governed by rules and regulations of the Interstate Commerce Commission by virtue of the Class 2 Certificate issued to the Ports Commission and the Port Terminal Railroad of South Carolina;

(4) to acquire, construct, maintain, equip and operate connecting, switching, terminal or other railroads. The term "railroad" as used in this article shall include, but not be limited to, tracks, spurs, switches, terminal, terminal facilities, road beds, rights‑of‑way, bridges, stations, railroad cars, locomotives, or other vehicles constructed for operation over railroad tracks, crossing signs, lights, signals, storage, administration and repair buildings, and all structures and equipment which are necessary for the operation of the railroad;

(5) to exercise the power of eminent domain by and in the name of the division. The division also may acquire the rights‑of‑way of abandoned railroads or railroads proposed for abandonment by gift or purchase;

(6) to employ and dismiss at pleasure the employees of the division and to fix and to pay the compensation thereof;

(7) to issue revenue bonds, including notes, bonds, refunding bonds and other obligations authorized to be issued by this article, to defray the cost of acquisition, by purchase, construction or condemnation, of connecting, switching, terminal or other railroads, and necessary equipment, payable both as to principal and interest from the revenues to be derived from the operation of such railroads; provided, that all revenue bonds issued by the division shall be issued in accordance with the provisions of Sections 13‑1‑1350 through 13‑1‑1460.

(8) to do all things necessary and required to accomplish the purposes of this article.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993.

**SECTION 13‑1‑1340.** Transfer of certain common carrier switching operations to division.

The South Carolina State Ports Authority shall, as soon as practicable, transfer to the division its common carrier Class 2 switching railroad operations that are currently under the jurisdiction of the Interstate Commerce Commission.

This transfer includes tracks, yards, equipment, trackage rights, franchises, licenses, leases, agreements, and labor contracts connected with the above railroad operations. Tracks comprise approximately seventeen miles of main yard and line tracks as reported in the latest annual report to the Interstate Commerce Commission. Tracks do not include railroad sidings serving a single user.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993.

**SECTION 13‑1‑1350.** Power of director to extend division's operations.

In addition to the powers and duties of the director as specified by Section 13‑1‑1330, when it shall appear that the acquisition, by purchase, construction, condemnation or donation, and operation of additional connecting, switching, terminal or other railroads are desirable in the public interest to promote and foster economic growth and development, the director may, with the approval of the State Fiscal Accountability Authority, extend the division's operations, provided, that if such extension includes extension of mainline trackage, the common carrier railroads operating in the State shall have declined to agree to provide such facilities within six months after having been requested to do so by the division and the State Fiscal Accountability Authority and provided the financing for such extensions is approved by the State Fiscal Accountability Authority pursuant to the provisions of this article.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993.

**SECTION 13‑1‑1355.** Transfer of certain railroad equipment.

All tracks, spurs, switches, terminal, terminal facilities, road beds, rights of way, bridges, stations, railroad cars, locomotives, or other vehicles constructed for operation over railroad tracks, crossing signs, lights, signals, storage, and all associated structures and equipment which are necessary for the operation of any railroad located on any "applicable federal military installation" or "applicable federal facility" as defined in Section 12‑6‑3450 may not be transferred without the prior approval of the State Fiscal Accountability Authority.

HISTORY: 2009 Act No. 73, Section 15, eff June 16, 2009.

**SECTION 13‑1‑1360.** Bonds of division to be limited obligations.

All bonds issued by the Secretary of Commerce under authority of this article shall be limited obligations of the division, the principal of and interest on which shall be payable solely out of the revenues derived from the operation of the railroads authorized by this article which the bonds are issued to finance. Bonds and interest coupons issued under authority of this article shall not constitute an indebtedness of the division or department, the State of South Carolina, or any political subdivision thereof, within the meaning of any state constitutional provision or statutory limitation and shall not constitute nor give rise to a pecuniary liability of the same or a charge against the general credit of the division or the department or against the full faith, credit or taxing power of the State of South Carolina, or a political subdivision thereof, and such fact shall be plainly stated on the face of each bond. Such bonds may be executed and delivered at any time as a single issue or from time to time as several issues, may be in such form and denominations, may be of such tenor, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding forty years from their date, may be subject to such terms of redemption, may be payable at such place or places, may bear interest at such rate or rates payable at such place or places and evidenced in such manner, and may contain such provisions not inconsistent herewith, all of which shall be provided in the proceedings of the commission authorizing the bonds. Any bonds issued under the authority of this article may be sold at public or private sale at such price and in such manner and from time to time as may be determined by the Secretary of Commerce to be most advantageous, and the division may pay, as a part of the cost of acquiring any railroad and necessary equipment, and out of the bond proceeds, all expenses, premiums and commissions which the Secretary of Commerce may deem necessary or advantageous in connection with the authorization, sale and issuance thereof. All bonds issued under the authority of this article except registered bonds, registered otherwise than to bearer and all interest coupons appurtenant thereto shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source. The proceedings authorizing the issuance of bonds may provide for the issuance, in the future, of further bonds on a parity with those initially issued, but such proceedings shall preclude the issuance of bonds or any obligations of any sort secured by a lien prior to the lien of the bonds or bonds afterwards issued on a parity with the bonds.

Pending the issuance of bonds, bond anticipation notes may be issued, and to the end that a vehicle be provided therefor, the provisions of Sections 11‑17‑10 to 11‑17‑110, as now or hereafter amended, shall be applicable to such bond anticipatory borrowing.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993; 1994 Act No. 361, Section 9, eff May 3, 1994.

**SECTION 13‑1‑1370.** Bonds to be secured by pledge of division revenues.

The principal of and interest on any bonds issued under the authority of this article shall be secured by a pledge of the revenues from which such bonds shall be payable, may be secured by a trust indenture covering all or any part of the railroad and necessary equipment from which the revenues so pledged are derived. The proceedings under which such bonds are authorized to be issued or any such trust indenture may contain any agreements and provisions customarily contained in instruments securing bonds, including, without limiting the generality of the foregoing, provisions respecting the fixing and collection of revenues for any railroad covered by such proceedings or trust indenture, the maintenance and insurance of the railroad and necessary equipment, the creation and maintenance of special funds from the revenues of the railroad, and the rights and remedies available in the event of default to the bondholders or to the trustee under trust indenture, all as the director shall deem advisable and as shall not be in conflict with the provisions of this article; provided, however, that in making any such agreements or provisions, the division shall not have the power to obligate itself except with respect to the railroad and necessary equipment and the application of the revenues therefrom, and shall not have the power to incur a pecuniary liability or a charge upon its general credit or against the full faith, credit or taxing power of the State of South Carolina or any political subdivision thereof. The proceedings authorizing any bonds hereunder and any trust indenture securing such bonds may provide that, in the event of default in payment of the principal of or the interest on such bonds or in the performance of any agreement contained in such proceedings or trust indenture, such payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect revenues and to apply the revenues from the railroad in accordance with such proceedings or the provisions of such trust indenture. Any such trust indenture may provide also that in the event of default in payment or the violation of any agreement contained in the trust indenture, it may be foreclosed by proceedings at law or in equity, and may provide that any trustee under the trust indenture or the holder of any of the bonds secured thereby may become the purchaser at any foreclosure sale, if he is the highest bidder. No breach of any such agreement shall impose any pecuniary liability upon the division or department or any charge upon its general credit or against the full faith, credit or taxing power of the State of South Carolina, or any political subdivision thereof.

The trustee or trustees under any trust indenture, or any depository specified by such trust indenture, may be such persons or corporations as the director shall designate, notwithstanding that they may be nonresidents of South Carolina or incorporated under the laws of the United States or the laws of other states of the United States.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993.

**SECTION 13‑1‑1380.** Contract terms for construction and equipment.

Contracts for the construction of any railroad, or the purchase of any necessary equipment, may be let on such terms and under such conditions as the director shall prescribe and may be let with or without advertisement or call for bids therefor.

Provided, however, that after the acquisition by construction of the railroad has been completed and the railroad has been placed into service the provisions of Section 1‑1‑40 shall apply.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993.

**SECTION 13‑1‑1390.** Determinations of director prerequisite to acquisition of railroads and equipment.

Prior to undertaking the acquisition of any railroad and necessary equipment, the director shall find: that the acquisition of the railroad and necessary equipment is desirable in the public interest to promote and foster economic growth and development; that the common carrier railroads operating in the State shall have declined to agree to provide such railroad and necessary equipment within six months after having been requested to do so by the division and the State Fiscal Accountability Authority; that the acquisition of the railroad and necessary equipment will give rise to no pecuniary liability of the division or a charge against its general credit or a charge against the full faith, credit or taxing power of the State of South Carolina or any political subdivision thereof; the amount of bonds required to finance the acquisition of the railroad and necessary equipment; the amount necessary in each year to pay the principal and interest on the bonds proposed to be issued to finance the acquisition of the railroad and necessary equipment; the amount necessary to be paid each year into any reserve funds which the director may deem it advisable to establish in connection with the retirement of the proposed bonds and the operation and maintenance of the railroad and necessary equipment; the estimated cost of maintaining the railroad and necessary equipment in good repair and keeping them properly insured. The determinations and findings of the director required to be made above shall be set forth in the proceedings under which the proposed bonds are to be issued, and the director shall certify in writing such determinations and findings to the State Fiscal Accountability Authority before the issuance of such bonds.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993.

**SECTION 13‑1‑1400.** Power of director over disbursement of bond proceeds.

The director shall have the power to provide that the bond proceeds shall be disbursed by the trustee bank or banks during construction upon the estimate, order or certificate of the designated construction engineer and the authorized representative of the division. In making such agreements or provisions the director shall not have the power to obligate the division except with respect to the railroad and necessary equipment and the application of the revenues therefrom, and shall not have the power to incur a pecuniary liability or a charge upon the general credit of the division or against the full faith, credit or taxing power of the State of South Carolina or a political subdivision thereof.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993.

**SECTION 13‑1‑1410.** Books of additional acquisitions to be kept separately.

The books and financial records of any additional acquisition authorized under this article by the director shall be kept separate and apart from the presently existing books and records of the division.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993.

**SECTION 13‑1‑1420.** Application of proceeds from sale of bonds.

The proceeds from the sale of any bonds issued under authority of this article shall be applied only for the purpose for which the bonds were issued; provided, however, that any premium and accrued interest received in any such sale shall be applied to the payment of the principal of or the interest on the bonds sold; and provided, further, that if for any reason any portion of the proceeds shall not be needed for the purpose for which the bonds were issued, such unneeded portion of the proceeds shall be applied to the payment of the principal of or the interest on the bonds. The cost of acquiring any railroad or necessary equipment shall be deemed to include the following: the actual cost of the construction of any part of the railroad which may be constructed, including architects' and engineers' fees; the purchase price of any part of railroad or necessary equipment that may be acquired by purchase; all expenses in connection with the authorization, sale and issuance of the bonds to finance such acquisition; and the interest on the bonds for a reasonable time prior to construction, during construction and for not exceeding one year after completion of the construction.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993.

**SECTION 13‑1‑1430.** Refunding of bonds.

Any bonds issued hereunder and at any time outstanding may at any time and from time to time be refunded by the director, but only with the approval of the State Fiscal Accountability Authority being first obtained, by the issuance of its refunding bonds in such amount as the director may deem necessary but not exceeding an amount sufficient to refund the principal of the bonds to be refunded, together with any unpaid interest thereon and any premiums, expenses and commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded have matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds for the payment of the bonds to be refunded, or by exchange of the refunding bonds for the bonds to be refunded thereby; provided, that the holders of any bonds to be refunded shall not be compelled without their consent to surrender their bonds for payment or exchange prior to the date on which they are payable, or, if they are called for redemption prior to the date on which they are by their terms subject to redemption. All refunding bonds issued under the authority of this article shall be payable in the same manner and under the same terms and conditions as are herein granted for the issuance of bonds. In addition to the powers herein granted for the issuance of refunding bonds the director may avail himself of the provisions of Sections 11‑21‑10 to 11‑21‑80, (the Advanced Refunding Act).

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993.

**SECTION 13‑1‑1440.** Bonds to be lawful investments.

It shall be lawful for all executors, administrators, guardians, committees and other fiduciaries to invest any moneys in their hands in bonds issued under the provisions of this article.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993.

**SECTION 13‑1‑1450.** Bonds, revenue, and property of division to be tax exempt.

The bonds authorized by this article and the income therefrom, all trust indentures executed as security therefor, and all railroads and necessary equipment so long as owned by the division and the revenue derived therefrom shall be exempt from all taxation in the State of South Carolina except for inheritance, estate or transfer taxes; and all trust indentures made pursuant to the provisions of this article shall be exempt from South Carolina stamp and transfer taxes.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993.

**SECTION 13‑1‑1460.** Approval of State Fiscal Accountability Authority as prerequisite to issuance of bonds; procedure.

No bonds shall be issued pursuant to the provisions of this article until the proposal of the director to issue the bonds shall receive the approval of the State Fiscal Accountability Authority. Whenever the director shall propose to issue bonds pursuant to the provisions of this article, he shall file a petition with the State Budget and Control Board setting forth:

(a) a brief description of the railroad and necessary equipment proposed to be acquired and its anticipated effect upon the economy of the area in which the railroad is to be located and of the areas adjacent thereto;

(b) a reasonable estimate of the cost of the acquisition of the railroad and necessary equipment; and

(c) a general summary of the terms and conditions of the trust indenture.

Upon the filing of the petition the State Fiscal Accountability Authority shall, as soon as practicable, make such independent investigation as it deems advisable, and if it finds that the acquisition of the railroad and necessary equipment is intended to promote the purposes of this article and is reasonably anticipated to effect such result, it shall be authorized to approve the acquisition of the railroad and necessary equipment and at any time following such approval, the director may proceed with the acquisition and financing of the railroad and necessary equipment. Notice of the approval of the acquisition of the railroad and necessary equipment by the State Fiscal Accountability Authority shall be published at least once a week for three consecutive weeks by the State Fiscal Accountability Authority in a newspaper having general circulation in the State and the county where the railroad is to be located.

Any interested party may, within twenty days after the date of the publication of such notice, but not afterwards, challenge the validity of such approval by action de novo in the court of common pleas in any county where the railroad is to be located.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993.

**SECTION 13‑1‑1470.** Director not subject to other limitations.

The authorization herein granted may be carried out by the director without publication, notwithstanding any restriction, limitation, or other procedure imposed upon the director by any other statute.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993.

**SECTION 13‑1‑1480.** Division to hold title to assets and account for revenues; funds to be held in separate accounts.

In accordance with the requirements of Title 49, United States Code, Section 10102(17), and other provisions of federal laws governing the operation of common carrier railroads, unless such requirements or any part of them are waived by the Interstate Commerce Commission pursuant to Section 10505 of the Interstate Commerce Act (49 U.S. Code Section 10505), the division shall hold title to, disburse and account for assets and revenues received by it from whatever source. All such funds shall be on deposit with and maintained in separate accounts by the State Treasurer.

HISTORY: 1993 Act No. 181, Section 247, eff July 1, 1993.

ARTICLE 11

Coordinating Council for Economic Development

**SECTION 13‑1‑1710.** Coordinating Council for Economic Development.

There is created the Coordinating Council for Economic Development. The membership consists of the Secretary of Commerce, the Commissioner of Agriculture, the Executive Director of the Department of Employment and Workforce, the Director of the South Carolina Department of Parks, Recreation and Tourism, the Chairman of the State Board for Technical and Comprehensive Education, the Chairman of the South Carolina Ports Authority, the Chairman of the South Carolina Public Service Authority, the Chairman of the South Carolina Jobs Economic Development Authority, the Director of the South Carolina Department of Revenue, the Secretary of the Department of Transportation, and the Chairman of the South Carolina Research Authority. The Secretary of Commerce serves as the chairman of the coordinating council.

HISTORY: 1993 Act No. 181, Section 248, eff July 1, 1993; 1994 Act No. 361, Section 8, eff May 3, 1994; 2000 Act No. 387, Part II, Section 57A, eff July 1, 2000; 2010 Act No. 206, Section 8, eff June 7, 2010; 2010 Act No. 290, Section 32, eff January 1, 2011.

Code Commissioner's Note

In 2017, to correct a scrivener's error, the Code Commissioner corrected the text of this section to reflect the membership of the Secretary of the Department of Transportation on the Coordinating Council for Economic Development, as added by 2010 Act No. 206.

**SECTION 13‑1‑1720.** Purpose and duties of council.

(A) The coordinating council shall meet at least quarterly. It shall enhance the economic growth and development of the State through strategic planning and coordinating activities that include:

(1) development and revision of a strategic state plan for economic development. "Strategic state plan for economic development" means a planning document that outlines strategies and activities designed to continue, diversify, or expand the economic base of South Carolina, based on the natural, physical, social, and economic needs of the State;

(2) monitoring implementation of a strategic plan for economic development through an annual review of economic development activities of the previous year and modifying the plan as necessary;

(3) coordination of economic development activities of member agencies of the coordinating council and its advisory committees;

(4) use of federal funds, foundation grants, and private funds in the development, implementation, revision, and promotion of a strategic plan for economic development. Funds from foundation grants and private funds used for these purposes are public monies, notwithstanding their private source, and must be treated like public monies. These monies are subject to all accountability requirements governing public monies, including compliance with the South Carolina Consolidated Procurement Code, unless exempt by formal approval of the State Fiscal Accountability Authority. These monies are also subject to all disclosure requirements governing public monies, unless exempt by Section 30‑4‑40;

(5) evaluation of plans and programs in terms of their compatibility with state objectives and priorities as outlined in the strategic plan for economic development;

(6) approval of infrastructure and other economic development grants for local units of government pursuant to Section 12‑28‑2910;

(7) approval of infrastructure development grants for local units of government pursuant to Section 12‑21‑6540.

(B) The coordinating council may not engage in the delivery of services.

HISTORY: 1993 Act No. 181, Section 248, eff July 1, 1993; 1993 Act No. 164, Part II, Section 46B, eff July 1, 1993; 1994 Act No. 497, Part II, Section 22A, eff July 1, 1994; 2000 Act No. 387, Part II, Section 57A, eff July 1, 2000; 2003 Act No. 86, Section 2, eff July 14, 2003.

**SECTION 13‑1‑1730.** Reports.

The coordinating council shall make reports to the Governor, the chairmen of the Senate Finance and House Ways and Means Committees, and the General Assembly at least annually, in the Department of Commerce's annual report, on the status and progress of economic development goals which have been set for the State as a part of the ongoing planning process and on the commitments, expenditures, and balance of the Economic Development Account, with appropriate recommendations.

HISTORY: 1993 Act No. 181, Section 248, eff July 1, 1993; 2000 Act No. 387, Part II, Section 57A, eff July 1, 2000.

**SECTION 13‑1‑1740.** Recommendations by council; review of agency requests for appropriations.

(A) The coordinating council shall make recommendations to the Governor, the General Assembly, and the State Fiscal Accountability Authority as to the policies and programs involved in the state's economic development it considers necessary to carry out the objectives of the strategic plan.

(B) The coordinating council shall review agency requests for legislative appropriations for economic development and may make recommendations to the Office of the Governor and the State Fiscal Accountability Authority and the General Assembly concerning requests compatible with the objectives of the strategic plan. This section does not limit an agency's direct access to the General Assembly, and comment by the coordinating council is not a part of the budget process.

HISTORY: 1993 Act No. 181, Section 248, eff July 1, 1993; 2000 Act No. 387, Part II, Section 57A, eff July 1, 2000.

**SECTION 13‑1‑1750.** Funding; technical advisory committees; data sources.

Funds for technical, administrative, and clerical assistance and other expenses of the coordinating council must be provided by the member agencies. The coordinating council may establish technical advisory committees to assist in the development of a strategic plan for economic development. The coordinating council shall seek to utilize data available from the Department of Transportation, the University of South Carolina, Clemson University, and other state agencies and organizations and relevant to the economic growth and development of the State.

HISTORY: 1993 Act No. 181, Section 248, eff July 1, 1993; 2000 Act No. 387, Part II, Section 57A, eff July 1, 2000.

**SECTION 13‑1‑1760.** Council not to infringe on autonomy of other agencies.

If a provision of Sections 13‑1‑1710 through 13‑1‑1770 conflicts with an existing provision of law pertaining to the member agencies of the coordinating council, notwithstanding the fact that Sections 13‑1‑1710 through 13‑1‑1770 have a later effective date, the earlier provision controls. Neither Sections 13‑1‑1710 through 13‑1‑1770 nor the coordinating council shall infringe upon nor diminish the self‑governing autonomy of the agencies involved.

HISTORY: 1993 Act No. 181, Section 248, eff July 1, 1993; 2000 Act No. 387, Part II, Section 57A, eff July 1, 2000.

**SECTION 13‑1‑1770.** Downtown Redevelopment Program; purpose; guidelines for evaluating and awarding grants.

(A) The coordinating council shall establish the "Downtown Redevelopment Program" for the purpose of making grants for revitalizing and enhancing the viability of downtown areas through partnerships of municipal government, county government, and private investors.

(B) The council shall establish program guidelines, regulations, and criteria by which grants must be evaluated and awarded including, but not limited to:

(1) a nonstate match requirement of at least one hundred fifty percent of state grant funds; and

(2) completion of an economic impact before an award is made.

HISTORY: 1998 Act No. 419, Part III, Section 3(A), eff July 1, 1998; 2000 Act No. 387, Part II, Section 57A, eff July 1, 2000.

**SECTION 13‑1‑1780.** Agricultural businesses considered for economic development awards.

In awarding benefits for economic development projects, including awards from the Governor's Closing Fund, the Department of Commerce and the coordinating council must consider agricultural businesses. The Department of Commerce and the coordinating council must consider the number of jobs created, including full‑time, part‑time, and seasonal jobs, and the total investment made, including the cost of the real property.

HISTORY: 2016 Act No. 256 (S.427), Section 6, eff June 8, 2016.

ARTICLE 13

Regional Education Centers

**SECTION 13‑1‑1810.** Transfer of powers relating to regional education centers.

The powers and duties of the Education and Economic Development Coordinating Council relating to regional education centers pursuant to Chapter 59, Title 59 are transferred to the Department of Commerce.

HISTORY: 2014 Act No. 149 (H.3410), Section 1, eff April 7, 2014.

**SECTION 13‑1‑1820.** Department to provide oversight to regional education centers.

(A) The Department of Commerce shall provide oversight to the regional education centers, which are to coordinate and facilitate the delivery of information, resources, and services to students, educators, employers, and the community as provided in this article. The department shall seek the input from the State Department of Education in carrying out the requirements of this section.

(B) The primary responsibilities of these centers are to:

(1) provide services to students and adults for career planning, employment seeking, training, and other support functions;

(2) provide information, resources, and professional development programs to educators;

(3) provide resources to school districts for compliance and accountability pursuant to the provisions of Chapter 59, Title 59;

(4) provide information and resources to employers including, but not limited to, education partnerships, career‑oriented learning, and training services;

(5) facilitate local connections among businesses and those involved in education;

(6) work with school districts and institutions of higher education to create and coordinate workforce education programs; and

(7) ensure each regional education center has a career development facilitator.

(C)(1) Each regional education center shall have a career development facilitator to coordinate career oriented learning, career development, and postsecondary transitioning for the schools in its region.

(2) A career development facilitator must be certified and recognized by the National Career Development Association.

(D) The centers shall provide data and reports that the department requests.

(E)(1) The regional centers must conform to the geographic configuration of the Local Workforce Investment Areas (LWIA) of the South Carolina Workforce Investment Act. Each regional center shall have an advisory board comprised of a school district superintendent, high school principal, local workforce investment board chairperson, technical college president, four‑year college or university representative, career center director or school district career and technology education coordinator, parent‑teacher organization representative, and business and civic leaders. Appointees must reside or do business in the geographic area of the center. Appropriate local legislative delegations shall make the appointments to the regional center boards.

(2) The regional centers shall include, but not be limited to, the one‑stop shops, workforce investment boards, tech prep consortia, and regional instructional technology centers.

HISTORY: 2014 Act No. 149 (H.3410), Section 1, eff April 7, 2014.

**SECTION 13‑1‑1840.** Assistance to department in planning and promoting career information and employment options and preparation programs.

The South Carolina Department of Employment and Workforce, in collaboration with the State Board for Technical and Comprehensive Education and the Commission on Higher Education, and the State Department of Education shall assist the Department of Commerce in planning and promoting the career information and employment options and preparation programs provided for in this section and in the establishment of the regional education centers by:

(1) identifying potential employers to participate in the career‑oriented learning programs;

(2) serving as a contact point for employees seeking career information and training;

(3) providing labor market information including, but not limited to, supply and demand;

(4) promoting increased career awareness and career counseling through the management and promotion of the South Carolina Occupational Information System;

(5) collaborating with local agencies and businesses to stimulate funds; and

(6) cooperating in the creation and coordination of workforce education programs.

HISTORY: 2014 Act No. 149 (H.3410), Section 1, eff April 7, 2014.

ARTICLE 15

Coordinating Council for Workforce Development

Code Commissioner's Note

ARTICLE 15 was added at the direction of the Code Commissioner.

**SECTION 13‑1‑2030.** Coordinating Council for Workforce Development created; membership; duties.

(A) There is established the "Coordinating Council for Workforce Development" which is created to engage in discussions, collaboration, and information sharing concerning the state's ability to prepare and train workers to meet current and future workforce needs. The coordinating council shall be comprised of the following members:

(1) the Secretary of the Department of Commerce or his designee;

(2) the State Superintendent of Education or his designee;

(3) the Executive Director of the State Board for Technical and Comprehensive Education or his designee;

(4) the Executive Director of the Department of Employment and Workforce or his designee;

(5) the Executive Director of the Commission on Higher Education or his designee;

(6) the president or provost of a research university who shall be selected by the presidents of the research universities;

(7) the president or provost of a four‑year college or university who shall be selected by the presidents of the four‑year universities;

(8) the president of a technical college who shall be appointed by the Chairman of the State Board for Technical and Comprehensive Education;

(9) a person appointed by the Superintendent of Education who has particularized expertise regarding Chapter 59, Title 59, the South Carolina Education and Economic Development Act; and

(10) a representative from the business community appointed by the President of the South Carolina Chamber of Commerce.

(B)(1) The coordinating council shall:

(a) develop and implement procedures for sharing information and coordinating efforts among stakeholders to prepare the state's current and emerging workforce to meet the needs of the state's economy. The primary workforce focus of the council shall be on persons over age twenty‑one;

(b) make recommendations to the General Assembly concerning matters related to workforce development that exceed the council members' agencies' scope of authority to implement and legislation is required;

(c) recommend, to the General Assembly, programs intended to increase student access to and incentivize workforce training within state training programs or through programs offered by businesses through scholarships, grants, loans, tax credits, or other programs documented to be effective in addressing current and future workforce needs;

(d) develop a method for identifying and addressing long‑term workforce needs;

(e) conduct an ongoing inventory of existing workforce programs to identify duplications among and within the programs and identify ineffective programs. The council may make recommendations concerning the appropriate actions necessary to eliminate duplication, improvements to ineffective programs so that the programs can achieve the desired result, or the elimination of programs that no longer meet workforce needs; and

(f) submit an annual progress report to the Governor and the General Assembly, by July first of each fiscal year, concerning the actions taken by the council during the previous fiscal year, and any recommendations for legislation or agency action. The council may submit additional reports on an ongoing basis as deemed necessary by the council chairman.

(2) The coordinating council may create subcommittees or advisory groups comprised of community or state or local government stakeholders to assist the council in carrying out the council's duties as contained in item (1).

(C) The Secretary of the Department of Commerce or his designee to the coordinating council shall be the coordinating council's chairman.

(D) The Commission on Higher Education, the Department of Commerce, and the State Board for Technical and Comprehensive Education shall provide staff for the coordinating council.

HISTORY: 2016 Act No. 252 (H.4145), Section 1, eff June 8, 2016.

Code Commissioner's Note

At the direction of the Code Commissioner in 2016, in (A), "Coordinating Council for Workforce Development" was substituted for "Coordinating Council of Workforce Development" to correct a typographical error.