

REPORT OF THE HIGHER EDUCATION SUBCOMMITTEE

(Ballentine, Cobb-Hunter & Taylor - Staff Contact: Terikah Staggers)

SENATE BILL

S. 314 -- Sen. Talley: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-157-10 SO AS TO PROVIDE CHAPTER DEFINITIONS; BY ADDING SECTION [59-157-30](#) SO AS TO REQUIRE CERTAIN PERMANENT IMPROVEMENT PROJECTS OVER THRESHOLD AMOUNTS FOR HIGHER INSTITUTIONS TO BE SUBMITTED FOR REVIEW TO THE COMMISSION ON HIGHER EDUCATION AND JOINT BOND REVIEW COMMITTEE AND THE STATE FISCAL ACCOUNTABILITY AUTHORITY FOR APPROVAL AFTER FULL ARCHITECTURE AND ENGINEERING DESIGN WORK IS COMPLETED BUT PRIOR TO THE EXECUTION OF A CONSTRUCTION CONTRACT, TO ALLOW THE CHAIRMAN OF JOINT BOND REVIEW COMMITTEE TO REQUEST A REVIEW AND COMMENT ON ANY OTHER PERMANENT IMPROVEMENT PROJECT; BY ADDING SECTION [59-157-40](#) SO AS TO EXEMPT CERTAIN HIGHER EDUCATION PERMANENT IMPROVEMENT PROJECTS FROM THE REQUIREMENTS OF SECTION [2-47-50](#) AND TO REQUIRE THE GOVERNING BOARDS TO REPORT ANNUALLY TO THE COMMISSION ON HIGHER EDUCATION, THE JOINT BOND REVIEW COMMITTEE, AND THE STATE FISCAL ACCOUNTABILITY AUTHORITY OF ALL PROJECTS APPROVED; BY ADDING SECTION [59-157-50](#) SO AS TO REQUIRE THE BOARD OF TRUSTEES TO PROVIDE ON AN ANNUAL BASIS A REPORT OF PROPERTY ACQUIRED AND ANY CAPITAL PROJECTS THAT ARE EXEMPT BY OPERATION OF SECTION [59-157-40](#)

Received by Ways and Means: 5/11/23

Summary of Bill:

This bill eliminates approval of the State Fiscal Accountability Authority (SFAA), as a requirement to establish a Permanent Improvement Project (PIP). PIP must be formally established with the Department of Administration. Projects greater than \$5,000,000 at research universities, and up to \$2,500,000 for all other higher education institutions, must be reviewed by both the Commission on Higher Education and Joint Bond Review Committee. Following the completion of engineering and design work, but prior to the issuance of a construction contract, permanent improvement projects exceeding the threshold must obtain the approval of SFAA. Any PIP falling under the threshold may be approved by the institution's governing board, without further review.

Estimated Revenue Impact:

No expenditure impact is projected for the State Fiscal Accountability Authority, Department of administration. There will be no Fiscal Impact on the Joint Bond Review Committee. Potential cost savings for state institutions of higher learning and the Commission on Higher Education (CHE), are undetermined.

"THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT".

Subcommittee Action/Explanation

The proposed amendment streamlines the approval process for permanent improvement projects through several actions including the removal of the Commission on Higher Education from the approval process. It provides athletic debt relief, as well an increase of the permanent improvement thresholds, with an annual inflator. The bill is reported favorable from the Higher Education Subcommittee, as amended.

Full Committee Action/Explanation

Other Notes/Comments:

SOUTH CAROLINA
HOUSE AMENDMENT

AMENDMENT NO. _____

David Good
April 24, 2024

ADOPTED	REJECTED	TABLED	ADJOURN DEBATE	RECONSIDERED	ROO

Clerk of the House

ADOPTION NO. _____

BILL NO: S. 314

(Reference is to the original version)

The Higher Education Subcommittee proposes the following amendment (LC-314.DG0010H):

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

SECTION 1. Section 2-47-40(B) of the S.C. Code is amended to read:

~~(B) All institutions of higher learning shall submit permanent improvement project proposal and justification statements to the authority, through the Commission on Higher Education, which shall forward all such statements and all supporting documentation received to the authority together with its comments and recommendations. The recommendations of the Commission on Higher Education, among other things, shall include all of the permanent improvement projects requested by the several institutions listed in the order of priority deemed appropriate by the~~

~~Commission on Higher Education without regard to the sources of funds proposed for the financing of the projects requested.~~

~~—The authority shall forward a copy of each project proposal and justification statement and supporting documentation received together with the authority's recommendations on such projects to the committee for its review and action. The recommendations of the Commission on Higher Education shall be included in the materials forwarded to the committee by the authority.~~Reserved.

SECTION 2. Section 2-47-50(D) through (F) of the S.C. Code is amended to read:

(D) For purposes of this chapter, ~~a with regard to all institutions of higher learning,~~ permanent improvement project is any improvement meeting the definition of a capital improvement under generally accepted accounting principles, including without limitation~~defined as:~~

~~(1) acquisition of land, regardless of cost, with staff level review of the committee and the State Fiscal Accountability Authority, up to two hundred fifty thousand dollars;~~

~~(2) acquisition, as opposed to the construction, of buildings or other structures, regardless of cost, with staff level review of the committee and the State Fiscal Accountability Authority, up to two hundred fifty thousand dollars;~~

~~(3) work on existing facilities for any given project including their renovation, repair, maintenance, alteration, or demolition in those instances in which the total cost of all work involved is one million dollars or more;~~

~~—(4) architectural and engineering and other types of planning and design work, regardless of cost, which is intended to result in a permanent improvement project. Master plans and feasibility studies are not permanent improvement projects and are not to be included;~~

~~—(5) capital lease purchase of anya facility acquisition or construction in which the total cost is one million dollars or more;~~

(4) new construction;

(5) work on existing facilities including their renovation, repair, maintenance, alteration, or demolition, except that this item does not apply to a research university or other public institution of higher learning so long as the amount does not exceed the applicable limit set forth in Section 2-47-52 regardless of the source of funds;

(6) architectural and engineering and other types of planning and design work that is intended to result in a permanent improvement project; excluding, however, master plans and feasibility studies;

(7)(6) equipment that either becomes a permanent fixture of a facility or does not become permanent but is included in the construction contract shall be included as a part of a project in which the total cost is one million dollars or more; and

(8)(7) subject to the exception set forth in item (5), any project new construction of a facility that exceeds a total cost of five hundred thousand dollars.

~~—(E) Any permanent improvement project that meets the above definition must become a project, regardless of the source of funds. However, an institution of higher learning that has been authorized or by the General Assembly including without limitation any project funded by appropriated capital improvement bond funds, capital reserve funds, or state appropriated funds, or state infrastructure bond funds by the General Assembly for capital improvements shall process a permanent improvement project, regardless of the amount.~~

(E) Any capital improvement that meets the definition set forth in subsection (D) must be established as a permanent improvement project in accordance with the provisions of this chapter, regardless of the source of funds.

~~(F) For purposes of establishing permanent improvement projects, Clemson University Public Service Activities (Clemson PSA) and South Carolina State University Public Service Activities (SC State PSA) are subject to the provisions of this chapter.~~

SECTION 3. Chapter 47, Title 2 of the S.C. Code is amended by adding:

Section 2-47-52. (A) For purposes of this chapter, except as provided in subsection (B), permanent improvement projects are subject to review by the committee and approval by the authority where the costs of the permanent improvements exceed two hundred fifty thousand dollars.

(B) For purposes of this chapter, permanent improvement projects proposed by public institutions of higher learning as defined in Section 59-103-5, including their related public service activities, are exempt from the requirements of Section 2-47-50 where the costs of the permanent improvements do not exceed ten million dollars for research universities as identified in Section 11-51-30(5) or five million dollars for all other public institutions of higher learning so long as the institution's governing board voted to approve the project in a public session. Institutions shall provide a report of projects approved by their governing boards pursuant to this subsection, and work on existing facilities including their renovation, repair, maintenance, alteration, or demolition, to the Joint Bond Review Committee and the State Fiscal Accountability Authority of the previous fiscal year's approved projects that meet the same criteria of this subsection by November fifteenth of each year.

(C) State agencies and institutions may advertise, interview, and engage the services of professional firms for architectural, engineering, planning, and design work as set forth in Section 2-47-50(D)(6) to inform the project estimate prior to the review of the committee; provided, however, that the costs of such engagements do not exceed ten million dollars for research universities as identified in Section 11-51-30(5), five million dollars for all other public institutions of higher learning, or one hundred thousand dollars for all other agencies subject to the provisions of this chapter.

(D) Where the funding for a proposed permanent improvement project includes proceeds from the issuance of bonds or other indebtedness, including any obligation for an agency or institution to make payments pursuant to a lease or other agreement securing indebtedness in connection with or on behalf of the permanent improvement project, approval of the permanent improvement project is the responsibility of the Department of Administration, and approval of the issuance of

bonds, where required pursuant to the applicable bond enabling act, or other indebtedness in accordance with the provisions of this subsection, is the responsibility of the State Fiscal Accountability Authority.

(E) Notwithstanding the cost maximums set forth in subsection (B) and (C) for research universities and other public institutions of higher learning, beginning in Fiscal Year 2025-2026, and each fiscal year thereafter, the amounts must be increased each fiscal year in a percentage amount equal to the increase in the Higher Education Price Index in the preceding fiscal year using the most recently available data, as determined by the Revenue and Fiscal Affairs Office. The Director of the Revenue and Fiscal Affairs Office shall submit the adjustment for the upcoming fiscal year to the State Register for publication pursuant to Section 1-23-40(2) by February first of each year.

SECTION 4. Section 2-47-55 and Section 2-47-56 are amended to read:

Section 2-47-55. (A) All state agencies responsible for providing and maintaining physical facilities are required to submit a Comprehensive Permanent Improvement Plan (CPIP) to the Joint Bond Review Committee and the authority by September first of each year. The CPIP must include all of the agency's permanent improvement projects anticipated and proposed over the next five years beginning with the fiscal year starting July first after submission in the current fiscal year. The purpose of the CPIP process is to provide the authority and the committee with an outline of each agency's permanent improvement activities for the next five years. Agencies must submit a CPIP to the committee and the authority on or before a date to be determined by the committee and the authority. ~~The CPIP for each higher education agency, including the technical colleges, must be submitted through the Commission on Higher Education which must review the CPIP and provide its recommendations to the authority and the committee. The authority and the committee must approve the CPIP after submission and may develop policies and procedures to implement and accomplish the purposes of this section.~~

(B) The State shall define a permanent improvement only in terms of capital improvements, as defined by generally accepted accounting principles, for reporting purposes to the State.

Section 2-47-56. Each state agency and institution may accept gifts-in-kind for architectural and engineering services and construction of a value less than two hundred fifty thousand dollars with the approval of the ~~Commission of Higher Education or its designated staff, the director of the department,~~ and the Joint Bond Review Committee or its designated staff. No other approvals or procedural requirements, including the provisions of Section 11-35-10, may be imposed on the acceptance of such gifts.

SECTION 5.A. Section 59-119-940 of the S.C. Code is amended to read:

Section 59-119-940. Upon receiving the approval of the State Fiscal Accountability Authority or the Department of Administration, as appropriate, and upon review by the Joint Bond Review Committee, the trustees may from time to time borrow such sums as necessary to accomplish the purpose of this article and to evidence such borrowings by bonds issued pursuant to this article in the aggregate principal amount as they determine, ~~except that other provisions of this article to the contrary notwithstanding, there must not be outstanding at any time bonds issued pursuant to this article in the aggregate principal amount as they determine, except that other provisions of this article to the contrary notwithstanding, there must not be outstanding at any time bonds issued pursuant to this article in excess of two hundred million dollars.~~

B. Section 9D of Act 518 of 1980, as last amended by Act 17 of 2007, is further amended to read:

D. May Issue Bonds.

Subject to obtaining the approval of the state board expressed by resolution duly adopted, the trustees are authorized to issue from time to time ~~not exceeding two hundred million dollars of~~ bonds for the purpose of acquiring, constructing, reconstructing, renovating, or equipping athletic facilities and for the purpose of refunding any previous series of bonds authorized by this section. If the trustees, in authorizing the issuance of bonds pursuant to this section, prescribe by resolution that there must be on deposit in the Bond Reserve Fund certain sums at the time of the delivery of the bonds, the trustees are empowered to utilize a portion of the proceeds of any series of bonds issued pursuant to this section in order to meet the requirement.

SECTION 6.A. Section 59-119-940 of the S.C. Code is amended to read:

Section 59-119-940. Upon receiving the approval of the State Fiscal Accountability Authority or the Department of Administration, as appropriate, and upon review by the Joint Bond Review Committee, the trustees may from time to time borrow such sums as necessary to accomplish the purpose of this article and to evidence such borrowings by bonds issued pursuant to this article in the aggregate principal amount as they determine, except that other provisions of this article to the contrary notwithstanding, there must not be outstanding at any time bonds issued pursuant to this article in the aggregate principal amount as they determine, except that other provisions of this article to the contrary notwithstanding, there must not be outstanding at any time bonds issued pursuant to this article in excess of ~~two~~ five hundred million dollars.

B. Section 9D of Act 518 of 1980, as last amended by Act 17 of 2007, is further amended to read:

D. May Issue Bonds.

Subject to obtaining the approval of the state board expressed by resolution duly adopted, the

trustees are authorized to issue from time to time not exceeding ~~two~~five hundred million dollars of bonds for the purpose of acquiring, constructing, reconstructing, renovating, or equipping athletic facilities and for the purpose of refunding any previous series of bonds authorized by this section. If the trustees, in authorizing the issuance of bonds pursuant to this section, prescribe by resolution that there must be on deposit in the Bond Reserve Fund certain sums at the time of the delivery of the bonds, the trustees are empowered to utilize a portion of the proceeds of any series of bonds issued pursuant to this section in order to meet the requirement.

SECTION 7. Section 1-11-55(2) of the S.C. Code is amended to read:

(2) The Division of General Services of the Department of Administration is hereby designated as the single central broker for the leasing of real property for governmental bodies. No governmental body shall enter into any lease agreement or renew any existing lease except in accordance with the provisions of this section. However, a technical college, with the approval by the State Board for Technical and Comprehensive Education, and a public institution of higher learning, may enter into any lease agreement or renew any lease agreement up to ~~one~~two hundred thousand dollars annually for each property or facility.

SECTION 8. Section 59-103-110 of the S.C. Code is repealed.

SECTION 9. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the

effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 10. This act takes effect upon approval by the Governor.

Renumber sections to conform.

Amend title to conform.



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
(803)734-3780 • RFA.SC.GOV/IMPACTS

This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	S. 0314	Introduced on January 10, 2023
Author:	Talley	
Subject:	Higher Education Permanent Improvement Projects	
Requestor:	Senate Education	
RFA Analyst(s):	Tipton	
Impact Date:	February 15, 2023	

Fiscal Impact Summary

This bill establishes the process by which state research institutions and other institutions of higher learning (IHL) must approve permanent improvement projects. The institution's governing board may approve, without further review by the Joint Bond Review Committee (JBRC), permanent improvement projects of up to \$5,000,000 for research universities and up to \$2,500,000 for other specified non-research IHLs.

This bill will result in an undetermined cost savings for the Commission on Higher Education (CHE) due to a potential reduction in total staff workload for permanent improvement project review and approval for state IHLs. Because the number and value of projects in a given year are unknown, potential cost savings cannot be quantified by the agency.

This bill will result in an undetermined cost savings for state IHLs as it removes steps of the permanent improvement project approval process for projects less than \$5,000,000 for research universities and less than \$2,500,000 for other specified institutions. Because the number and value of projects in a given year are unknown, potential cost savings cannot be quantified.

This bill will have no impact for the JBRC within the House of Representatives and Senate, the State Fiscal Accountability Authority (SFAA), or the Department of Administration's (Admin) Executive Budget Office (EBO) as a result of the change in the approval process of permanent improvement projects for state IHLs. The change is not expected to significantly impact workload, and no cost savings for the agencies are anticipated.

Explanation of Fiscal Impact

Introduced on January 10, 2023

State Expenditure

This bill establishes the approval process for permanent improvement projects for research universities and other specified IHLs. The governing board of a state IHL may vote, in a public session, to approve a permanent improvement project without further review by the JBRC or CHE of up to \$5,000,000 for research universities and up to \$2,500,000 for other specified IHLs. The bill requires institutions to provide a report of projects approved by the governing board to the Chairman of CHE, the JBRC, and SFAA by November 15th of the current fiscal year. Under

this bill, permanent improvement projects in excess of \$5,000,000 for research universities and \$2,500,000 for other specified IHLs that make use of lease-purchase agreements, state institution bond funds, state infrastructure bond funds, capital improvement bond funds, capital reserve funds, state general-appropriated funds, or student tuition and fee funds must be submitted to CHE and the JBRC for review and SFAA for approval after full architecture and engineering design work is completed but prior to a construction contract. Upon approval, the projects must be submitted to the EBO for publication. The Chairman of the JBRC may request to review and comment on any permanent improvement project that costs more than \$5,000,000 for research universities and \$2,500,000 for other specified IHLs.

In addition, the governing board of each IHL is required to provide a report of all projects falling below the thresholds established by the bill to the Governor, the Senate Finance Committee, and the House of Representatives Ways and Means Committee by September 30th of each year.

Commission on Higher Education. CHE, along with the JBRC, must review and approve permanent improvement projects that exceed the thresholds established by the bill for each class of IHL. In addition, CHE will receive submissions of reports on projects under the thresholds established by the bill. CHE indicates that this may reduce total staff workload for permanent improvement project review and approval. However, as the number and value of projects in a given year are unknown, potential cost savings are undetermined.

State Institutions of Higher Learning. Based on a survey of the IHLs, many responding institutions indicate that the bill will provide meaningful administrative relief. However, the institutions are unable to quantify potential savings resulting from a streamlined project approval process or costs related to reporting and other operations. Therefore, the fiscal impact of this bill on state IHLs is undetermined.

House of Representatives and Senate – Joint Bond Review Committee. JBRC, along with CHE, must review and approve permanent improvement projects that exceed the thresholds established by the bill for each class of IHL. In addition, the JBRC will receive submissions of reports on projects under the thresholds established by the bill. The House of Representatives and the Senate indicate that the change is not expected to significantly impact workload, and no cost savings are anticipated. Therefore, this bill will have no fiscal impact on the JBRC.

State Fiscal Accountability Authority. SFAA is required to approve permanent improvement projects in excess of the thresholds established by the bill upon the review of CHE and the JBRC, after full architecture and engineering design work is completed but prior to the execution of a construction contract. In addition, SFAA will receive submissions of reports on projects under the thresholds established by the bill. The agency indicates that the change is not expected to significantly impact workload, and no cost savings are anticipated. Therefore, this bill will have no expenditure impact on SFAA.

Department of Administration – Executive Budget Office. Upon SFAA approval of projects above the thresholds set by the bill for each class of IHLs, the projects must be submitted to EBO for publication. Admin indicates that the change is not expected to significantly impact

workload, and no cost savings are anticipated. Therefore, this bill will have no expenditure impact on Admin.

State Revenue

N/A

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director

South Carolina General Assembly
125th Session, 2023-2024

S. 314

STATUS INFORMATION

General Bill

Sponsors: Senator Talley

Document Path: SEDU-0044DB23.docx

Introduced in the Senate on January 10, 2023

Introduced in the House on May 11, 2023

Last Amended on May 9, 2023

Currently residing in the House Committee on **Ways and Means**

Summary: Higher Education Permanent Improvement Projects

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
12/7/2022	Senate	Prefiled
12/7/2022	Senate	Referred to Committee on Education
1/10/2023	Senate	Introduced and read first time (Senate Journal-page 191)
1/10/2023	Senate	Referred to Committee on Education (Senate Journal-page 191)
2/9/2023		Scrivener's error corrected
2/14/2023	Senate	Committee report: Favorable with amendment Education (Senate Journal-page 6)
2/15/2023		Scrivener's error corrected
5/9/2023	Senate	Amended (Senate Journal-page 48)
5/9/2023	Senate	Read second time (Senate Journal-page 48)
5/9/2023	Senate	Roll call Ayes-44 Nays-0 (Senate Journal-page 48)
5/10/2023	Senate	Read third time and sent to House (Senate Journal-page 13)
5/11/2023		Scrivener's error corrected
5/11/2023	House	Introduced and read first time (House Journal-page 11)
5/11/2023	House	Referred to Committee on Ways and Means (House Journal-page 11)

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VERSIONS OF THIS BILL

[12/07/2022](#)

[02/09/2023](#)

[02/14/2023](#)

[02/15/2023](#)

[05/09/2023](#)

[05/11/2023](#)

1 ~~Indicates Matter Stricken~~
2 Indicates New Matter
3
4 AMENDED
5 May 9, 2023

S. 314

Introduced by Senator Talley

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S. Printed 05/09/23--S.
Read the first time January 10, 2023

[SEC 5/11/2023 10:29 AM]

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A BILL

11 TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 59-157-10 SO
12 AS TO PROVIDE CHAPTER DEFINITIONS; BY ADDING SECTION 59-157-30 SO AS TO
13 REQUIRE CERTAIN PERMANENT IMPROVEMENT PROJECTS OVER THRESHOLD
14 AMOUNTS FOR HIGHER INSTITUTIONS TO BE SUBMITTED FOR REVIEW TO THE
15 COMMISSION ON HIGHER EDUCATION AND JOINT BOND REVIEW COMMITTEE AND
16 THE STATE FISCAL ACCOUNTABILITY AUTHORITY FOR APPROVAL AFTER FULL
17 ARCHITECTURE AND ENGINEERING DESIGN WORK IS COMPLETED BUT PRIOR TO THE
18 EXECUTION OF A CONSTRUCTION CONTRACT, TO ALLOW THE CHAIRMAN OF JOINT
19 BOND REVIEW COMMITTEE TO REQUEST A REVIEW AND COMMENT ON ANY OTHER
20 PERMANENT IMPROVEMENT PROJECT; BY ADDING SECTION 59-157-40 SO AS TO
21 EXEMPT CERTAIN HIGHER EDUCATION PERMANENT IMPROVEMENT PROJECTS FROM
22 THE REQUIREMENTS OF SECTION 2-47-50 AND TO REQUIRE THE GOVERNING BOARDS
23 TO REPORT ANNUALLY TO THE COMMISSION ON HIGHER EDUCATION, THE JOINT
24 BOND REVIEW COMMITTEE, AND THE STATE FISCAL ACCOUNTABILITY AUTHORITY
25 OF ALL PROJECTS APPROVED; BY ADDING SECTION 59-157-50 SO AS TO REQUIRE THE
26 BOARD OF TRUSTEES TO PROVIDE ON AN ANNUAL BASIS A REPORT OF PROPERTY
27 ACQUIRED AND ANY CAPITAL PROJECTS THAT ARE EXEMPT BY OPERATION OF
28 SECTION 59-157-40.

29 Amend Title To Conform

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

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33 SECTION 1. Section 2-47-30 of the S.C. Code is amended to read:

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35 Section 2-47-30. ~~The committee is specifically charged with, but not limited to, the following~~
36 ~~responsibilities:~~

37 ~~—(1) to review, prior to approval by the State Fiscal Accountability Authority, the establishment of~~
38 ~~any permanent improvement project and the source of funds for any such project not previously~~
39 ~~authorized specifically by the General Assembly;~~

40 ~~—(2) to study the amount and nature of existing general obligation and institutional bond obligations~~
41 ~~and the capability of the State to fulfill such obligations based on current and projected revenues;~~

42 ~~—(3) to recommend priorities of future bond issuance based on the social and economic needs of the~~
43 ~~State;~~

44 ~~—(4) to recommend prudent limitations of bond obligations related to present and future revenue~~
45 ~~estimates;~~

1 ~~—(5) to consult with independent bond counsel and other nonlegislative authorities on such matters~~
2 ~~and with fiscal officials of other states to gain in-depth knowledge of capital management and assist in~~
3 ~~the formulation of short- and long-term recommendations for the General Assembly;~~

4 ~~—(6) to carry out all of the above assigned responsibilities in consultation and cooperation with the~~
5 ~~executive branch of government and the authority;~~

6 ~~—(7) to report its findings and recommendations to the General Assembly annually or more frequently~~
7 ~~if deemed advisable by the committee.~~

8 The committee is charged with responsibilities, without limitation, to:

9 (1) review, prior to any implementation by any agency the establishment of and the source of funds
10 for any permanent improvement project not specifically authorized by the General Assembly;

11 (2) study the amount and nature of existing general obligation and institutional bond obligations, and
12 the capability of the State to fulfill such obligations based on current and projected revenues;

13 (3) recommend priorities of future bond issuance based on the social and economic needs of the
14 State;

15 (4) recommend prudent limitations of bond obligations related to present and future revenue
16 estimates;

17 (5) consult with independent counsel, advisors, and other authorities and fiscal officials to develop a
18 body of knowledge that promotes prudent and efficient administration and management of capital
19 assets and investments, and assist in the formulation of short- and long-term recommendations for
20 consideration by the General Assembly;

21 (6) carry out all of the above assigned responsibilities in consultation and cooperation with the
22 executive branch of government; and

23 (7) report its findings and recommendations to the General Assembly on such matters and at such
24 times as are appropriate and advisable.

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27 SECTION 2. Section 2-47-35 of the S.C. Code is amended to read:

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29 Section 2-47-35. No project authorized in whole or in part for capital improvement bond funding
30 under the provisions of Act 1377 of 1968, as amended, may be implemented until funds ~~have been~~
31 ~~be~~ made available and ~~until~~ the Joint Bond Review Committee, ~~in consultation with the authority,~~ has
32 establisheds priorities for the funding of the projects. The Joint Bond Review Committee ~~shall~~ must
33 report its priorities to the members of the General Assembly within thirty days of the establishment of
34 the funding priorities.

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36 SECTION 3. Section 2-47-40 of the S.C. Code is amended to read:

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Section 2-47-40. (A) ~~To assist the authority and the Joint Bond Review Committee in carrying out their respective responsibilities, any~~ Any agency or institution requesting or receiving funds from any source ~~for use in the financing of to fund~~ any permanent improvement project, as must provide, at a minimum, shall provide to the authority, and in such form and at such times as the ~~authority, after review by~~ Department of Administration and the committee, may prescribe:

- (1) a complete description of the proposed project;
- (2) a statement of justification for the proposed project;
- (3) a statement of the purposes and intended uses of the proposed project;
- (4) the estimated total cost of the proposed project;
- (5) an estimate of the additional future annual operating costs associated with the proposed project;
- (6) a statement of the expected impact of the proposed project on the five-year operating plan of the agency or institution proposing the project;
- (7) a proposed plan of funding for financing the project, specifically identifying funds proposed from sources other than capital improvement bond authorizations; and
- (8) the ~~specification of the~~ priority of each project among those proposed.

(B) All institutions of higher learning ~~must shall~~ submit to the Commission on Higher Education permanent improvement project proposal and justification statements for any permanent improvement project requiring review by the full committee pursuant to Section 2-47-52. The to the authority, through the Commission on Higher Education, which shall forward all such statements and all supporting documentation received to the authority together with its comments and recommendations. The recommendations of the Commission on Higher Education must be made, among other things, shall include all of the permanent improvement projects requested by the several institutions listed in accordance with higher education mission and goals as prescribed the order of priority deemed appropriate by Section 59-103-15, the Commission on Higher Education without regard to the sources of funds proposed for the funding financing of the projects requested.

~~A~~ The authority shall forward a copy of each project proposal and justification statement, supporting documentation, and supporting documentation received together with the authority's recommendations on such projects to the committee for its review and action. The any recommendations of the Commission on Higher Education must shall be provided included in the materials forwarded to the committee by the authority.

(C) No provision in this section or elsewhere in this chapter, ~~is to shall~~ be construed to limit in any manner the prerogatives of the committee and the General Assembly with regard to recommending or authorizing permanent improvement projects and the funding such projects may require.

SECTION 4. Section 2-47-50 of the S.C. Code is amended to read:

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Section 2-47-50. (A) ~~Each~~ ~~The authority shall establish formally each~~ permanent improvement project must be formally established in accordance with the provisions of this chapter before actions of any kind may be undertaken in any way to sort which implement the project. ~~No~~ ~~in any way may be undertaken and no~~ expenditure of any funds for any services or for any other project purpose may be contracted for, delivered, or otherwise provided prior to the date of the formal action of ~~the authority~~ to establish the project. ~~shall be approved. State agencies and institutions may advertise and interview for project architectural and engineering services for a pending project so long as the architectural and engineering contract is not awarded until after a state project number is assigned. Following review~~ After the committee, requests for ~~has reviewed the form to be used to request the establishment of permanent improvement projects and has reviewed the time schedule for considering such requests as proposed by the authority, requests to establish permanent improvement projects shall~~ must be made in such form and at such times as the ~~authority~~ Department of Administration may require.

(B) Any proposal to ~~fund~~ finance all or any part of any project using any funds not previously authorized by the General Assembly specifically for the project, or otherwise by the General Assembly ~~or~~ using any funds not previously approved for the project, must ~~by the authority and reviewed by the committee~~ shall be referred to the committee for review prior to any approval required by the provisions of this chapter ~~authority~~.

(C) Any proposed revision of the scope or ~~of~~ the budget of an established permanent improvement project deemed ~~by the authority~~ to be substantial must ~~shall~~ be referred to the committee for its review prior to any final action implementing the revision. The ~~by the authority. In making their determinations regarding changes in project scope, the authority, and the committee shall utilize the permanent improvement project proposal, and justification statements, and together with any supporting documentation, considered at the time the project was originally authorized or established originally~~ must be utilized in making determinations regarding changes in project scope. Any proposal to increase the budget of a previously approved project using any funds not previously approved for the project must ~~by the authority and reviewed by the committee~~ shall in all cases be deemed to be a substantial revision of a project budget and must ~~which shall~~ be referred to the committee for review pursuant to the provisions of Section 2-47-52. The committee must ~~shall~~ be advised promptly of all actions taken to ~~by the authority which~~ approve revisions in the scope ~~of~~ or the budget of any previously established permanent improvement project not deemed to be ~~substantial by the authority~~.

(D) For purposes of this chapter, ~~a~~ with regard to all institutions of higher learning, permanent improvement or a permanent improvement project is any improvement meeting the definition of a capital improvement under generally accepted accounting principles, including without limitation ~~defined as:~~

- (1) acquisition of land, ~~regardless of cost, with staff level review of the committee and the State~~

1 Fiscal Accountability Authority, up to two hundred fifty thousand dollars;

2 (2) acquisition, as opposed to the construction, of buildings or other structures, ~~regardless of cost,~~
3 ~~with staff level review of the committee and the State Fiscal Accountability Authority, up to two~~
4 ~~hundred fifty thousand dollars;~~

5 (3) ~~work on existing facilities for any given project including their renovation, repair,~~
6 ~~maintenance, alteration, or demolition in those instances in which the total cost of all work involved is~~
7 ~~one million dollars or more;~~

8 ~~—(4) architectural and engineering and other types of planning and design work, regardless of cost,~~
9 ~~which is intended to result in a permanent improvement project. Master plans and feasibility studies~~
10 ~~are not permanent improvement projects and are not to be included;~~

11 ~~—(5) capital lease purchase of anya facility acquisition or construction in which the total cost is one~~
12 ~~million dollars or more;~~

13 (4) new construction;

14 (5) work on existing facilities including their renovation, repair, maintenance, alteration, or
15 demolition;

16 (6) architectural and engineering and other types of planning and design work that is intended to
17 result in a permanent improvement project; excluding, however, master plans and feasibility studies;

18 (7)(6) equipment that either becomes a permanent fixture of a facility or does not become
19 permanent but is included in the construction contract shall be included as a part of a project in which
20 the total cost is one million dollars or more; and

21 (8)(7) any project new construction of a facility that exceeds a total cost of five hundred thousand
22 dollars.

23 ~~—(E) Any permanent improvement project that meets the above definition must become a project,~~
24 ~~regardless of the source of funds. However, an institution of higher learning that has been authorized~~
25 ~~or by the General Assembly including without limitation any project funded by appropriated capital~~
26 ~~improvement bond funds, capital reserve funds, or state appropriated funds, or state infrastructure bond~~
27 ~~funds by the General Assembly for capital improvements shall process a permanent improvement~~
28 ~~project, regardless of the amount.~~

29 (E) Any capital improvement that meets the above definition must be established as a permanent
30 improvement project in accordance with the provisions of this chapter, regardless of the source of
31 funds.

32 ~~(F) For purposes of establishing permanent improvement projects, Clemson University Public Service~~
33 ~~Activities (Clemson PSA) and South Carolina State University Public Service Activities (SC State~~
34 ~~PSA) are subject to the provisions of this chapter.~~

35
36 SECTION 5. ~~The repeal or amendment by this act of any law, whether temporary, permanent, civil,~~

1 ~~or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon or alter,~~
2 ~~discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or~~
3 ~~amended law, unless the repealed or amended provision shall so expressly provide. After the effective~~
4 ~~date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full~~
5 ~~force and effect for the purpose of sustaining any pending or vested right, civil action, special~~
6 ~~proceeding, criminal prosecution, or appeal existing as of the effective date of this act and for the~~
7 ~~enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or~~
8 ~~amended laws.~~

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10
11 SECTION 5. Chapter 47, Title 2 of the S.C. Code is amended by adding:

12
13 Section 2-47-52. (A) For purposes of this chapter, except as provided in Section 2-47-52(B),
14 permanent improvement projects are subject to review by the committee where the costs of the
15 permanent improvements exceed one hundred thousand dollars; provided, however, that acquisitions
16 of land, buildings or other structures, and capital lease purchases of facility acquisitions or construction
17 as defined in items (1), (2), and (3) of Section 2-47-50(D) are subject to review by the committee
18 regardless of cost.

19 (B) For purposes of this chapter, permanent improvement projects proposed by public universities
20 of higher learning as defined in Section 59-103-5, including their related public service activities, are
21 subject to review by the committee where the costs of the permanent improvements exceed five million
22 dollars for research universities as identified in Section 11-51-30(5) or two million five hundred
23 thousand dollars for all other public institutions of higher learning; provided, however, that acquisitions
24 of land, buildings or other structures, and capital lease purchases of facility acquisitions or construction
25 as defined in items (1), (2), and (3) of Section 2-47-50(D) are subject to review by the committee
26 regardless of cost.

27 (C) State agencies and institutions may advertise, interview, and engage the services of professional
28 firms for architectural, engineering, planning, and design work as defined in item (6) of Section 2-47-
29 50(D) to inform the project estimate prior to the review of the committee; provided, however, that the
30 costs of such engagements do not exceed five million dollars for research universities as identified in
31 Section 11-51-30(5), two million five hundred thousand dollars for all other public institutions of higher
32 learning, or one hundred thousand dollars for all other agencies subject to the provisions of this chapter.

33 (D) Notwithstanding any other provision of this section, the committee may establish reporting and
34 other requirements, and may authorize review of permanent improvement projects by committee staff,
35 at such levels as the committee may determine are appropriate.

36 (E) Where the funding for a proposed permanent improvement project includes proceeds from the

1 issuance of bonds or other indebtedness, including any obligation for an agency or institution to make
2 payments pursuant to a lease or other agreement securing indebtedness in connection with or on behalf
3 of the permanent improvement project, approval of the permanent improvement project is the
4 responsibility of the Department of Administration, and approval of the issuance of bonds, where
5 required pursuant to the applicable bond enabling act, or other indebtedness in accordance with the
6 provisions of this subsection, is the responsibility of the State Fiscal Accountability Authority.

7
8 SECTION 6. Section 2-47-55 of the S.C. Code is amended to read:

9
10 Section 2-47-55. ~~(A) All state agencies responsible for providing and maintaining physical facilities~~
11 ~~are required to submit a Comprehensive Permanent Improvement Plan (CPIP) to the Joint Bond Review~~
12 ~~Committee and the authority. The CPIP must include all of the agency's permanent improvement~~
13 ~~projects anticipated and proposed over the next five years beginning with the fiscal year starting July~~
14 ~~first after submission. The purpose of the CPIP process is to provide the authority and the committee~~
15 ~~with an outline of each agency's permanent improvement activities for the next five years. Agencies~~
16 ~~must submit a CPIP to the committee and the authority on or before a date to be determined by the~~
17 ~~committee and the authority. The CPIP for each higher education agency, including the technical~~
18 ~~colleges, must be submitted through the Commission on Higher Education which must review the CPIP~~
19 ~~and provide its recommendations to the authority and the committee. The authority and the committee~~
20 ~~must approve the CPIP after submission and may develop policies and procedures to implement and~~
21 ~~accomplish the purposes of this section.~~

22 ~~—(B) The State shall define a permanent improvement only in terms of capital improvements, as~~
23 ~~defined by generally accepted accounting principles, for reporting purposes to the State.~~

24 All state agencies responsible for providing and maintaining physical facilities are required to submit
25 a Comprehensive Permanent Improvement Plan to the committee. The plan must include all of the
26 permanent improvement projects proposed and anticipated by the agency over the next five years
27 beginning with the fiscal year starting July first after submission. The purpose of this planning process
28 is to develop a comprehensive statewide plan reflecting permanent improvements proposed and
29 anticipated by each agency for the next five years. Agencies must submit a plan to the committee
30 through the Department of Administration on or before a date to be determined by the Department of
31 Administration. The plan for each higher education agency, including the technical colleges, must also
32 be submitted to the Commission on Higher Education which must review the plan and provide its
33 recommendations to the committee. The committee must review the plan after submission and may
34 develop policies and procedures to implement and accomplish the purposes of this section.

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36 SECTION 7. Section 2-47-56 of the S.C. Code is amended to read:

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~~Section 2-47-56. Each state agency and institution may accept gifts in-kind for architectural and engineering services and construction of a value less than two hundred fifty thousand dollars with the approval of the Commission of Higher Education or its designated staff, the director of the department, and the Joint Bond Review Committee or its designated staff. No other approvals or procedural requirements, including the provisions of Section 11-35-10, may be imposed on the acceptance of such gifts.~~

For purposes of this chapter, the term “source of funds” includes without limitation gifts, gifts-in-kind, and donations; and when used as a financial resource to defray any cost of a permanent improvement project, the amount of the source of funds from such gifts, gifts-in-kind, and donations is the value of the gift, gift-in-kind, or donation. Each state agency and institution may accept gifts-in-kind for architectural and engineering services and construction following review by the committee or its designated staff in accordance with the provisions of Section 2-47-52. Such gifts are exempt from the provisions of Section 11-35-10.

SECTION 8. The repeal or amendment by this act of any law, whether temporary, permanent, civil, or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 9. This act takes effect upon approval by the Governor.

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