

**REPORT OF THE
GENERAL GOVERNMENT,
PERSONNEL & BENEFITS SUBCOMMITTEE**
(Herbkersman, White, J.H. Neal, Pitts & Umphlett - Staff Contact: Katie Owen)

HOUSE BILL 3743

H. 3743 -- Reps. Harrell, Lucas, Battle, Bingham, Cooper, Harrison and Pitts: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 13-17-89 SO AS TO PROVIDE THAT NO PROVISION IN CHAPTER 17, TITLE 13 MAY BE CONSTRUED TO AUTHORIZE THE SOUTH CAROLINA RESEARCH AUTHORITY TO COMMIT THE CREDIT AND TAXING POWER OF THE STATE, TO PROVIDE A WRITTEN NOTICE REQUIREMENT WHEN THE AUTHORITY HAS CERTAIN RELATIONSHIPS WITH A NONPROFIT ENTITY THAT ESTABLISHES A FOR-PROFIT ENTITY, AND TO PROVIDE THAT A FAILURE TO PROVIDE THIS NOTICE MAY NOT BE CONSTRUED TO INDICATE THE AUTHORITY MAY PLEDGE THE CREDIT AND TAXING POWER OF THE STATE; TO AMEND SECTION 13-17-40, AS AMENDED, RELATING TO THE MEMBERSHIP AND TERMS OF THE BOARD OF TRUSTEES AND EXECUTIVE COMMITTEE OF THE AUTHORITY, SO AS TO PROVIDE FOR THE ELECTION OF TWO ADDITIONAL TRUSTEES, TO PERMIT A UNIVERSITY PRESIDENT WHO IS AN EX OFFICIO MEMBER OF THE BOARD TO DESIGNATE THE CHIEF RESEARCH OFFICER OF HIS UNIVERSITY TO PARTICIPATE AND VOTE IN NO MORE THAN TWO MEETINGS OF THE EXECUTIVE COMMITTEE EACH YEAR, TO ALLOW THE EXECUTIVE COMMITTEE TO ELECT A VICE CHAIRMAN WITH POWERS AND DUTIES PROVIDED BY THE EXECUTIVE COMMITTEE, TO PROVIDE THE VICE CHAIRMAN SERVES AT THE PLEASURE OF THE EXECUTIVE COMMITTEE, TO PROVIDE FOR MEMBER TERMS, FILLING OF A VACANCY, AND REMOVAL OF AN EXECUTIVE COMMITTEE MEMBER, AND TO DELETE ARCANE REFERENCES; TO AMEND SECTION 13-17-70, AS AMENDED, RELATING TO THE POWERS OF THE BOARD OF TRUSTEES OF THE AUTHORITY, SO AS TO PROVIDE THE BOARD MAY PROVIDE GUARANTEES AS SECURITY FOR CERTAIN OBLIGATIONS; TO AMEND SECTION 13-17-87, AS AMENDED, RELATING TO COSTS ASSOCIATED WITH INNOVATION CENTERS ESTABLISHED BY THE AUTHORITY, SO AS TO MAKE CERTAIN FINANCING OPTIONAL RATHER THAN MANDATORY, TO EXPAND THE SOURCES OF FUNDING AVAILABLE FOR FINANCING THESE COSTS, AND TO PROHIBIT THE USE OF A PLEDGE OF CREDIT AND TAXING POWER OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE TO FINANCE THESE COSTS; TO AMEND SECTION 13-17-88, RELATING TO THE IMPLEMENTATION OF THE CERTAIN SECTIONS OF THE CODE OF LAWS BY THE AUTHORITY, SO AS TO PROVIDE THE AUTHORITY MAY EXPEND FUNDS REFERENCED IN THE INNOVATION CENTERS ACT OF 2005 AND THE INDUSTRY PARTNERS ACT OF 2006 IN A CERTAIN MANNER.

Summary of Bill:

This bill provides that the South Carolina Research Authority may be not be construed to have the authority to commit the credit and taxing power of the state. The legislation establishes a written notice requirement when the authority has certain relationships with a nonprofit entity that establishes a for-profit entity. The legislation provides that a failure to provide

this notice may not be construed to indicate the authority may pledge the credit and taxing power of the state. The legislation revises the membership and terms of the board of trustees and executive committee of the authority, so as: to provide for the election of two additional trustees; to permit a university president who is an ex officio member of the board to designate the chief research officer of his university to participate and vote in no more than two meetings of the executive committee each year; to allow the executive committee to elect a vice chairman with powers and duties provided by the executive committee; to provide the vice chairman serves at the pleasure of the executive committee; and to provide for member terms, the filling of a vacancy, and removal of an executive committee member. The legislation authorizes the board of trustees of the authority to provide guarantees as security for certain obligations. The legislation revises provisions for costs associated with innovation centers established by the authority, so as to make certain financing optional rather than mandatory. The legislation expands the sources of funding available for financing these costs, and prohibits the use of a pledge of credit and taxing power of the state or a political subdivision of the state to finance these costs. The legislation provides the authority may expend funds referenced in the Innovation Centers Act of 2005 and the Industry Partners Act of 2006 in a certain manner.

Introduced: 2/24/2011

Received by Ways and Means: 2/24/2011

Estimated Fiscal Impact:

The Commission on Higher Education indicates this Bill will have no impact on the General Fund of the State or on Federal and/or Other Funds

Subcommittee Recommendation:

Favorable with amendment

Full Committee Recommendation:

Pending

Other Notes/Comments:

The amendment deletes Section 5 of the bill.

HOUSE
AMENDMENT

THIS AMENDMENT
ADOPTED

BEESON/MORGAN
MARCH 9, 2011

CLERK OF THE HOUSE

THE GENERAL GOVERNMENT, PERSONNEL AND
BENEFITS SUBCOMMITTEE PROPOSES THE FOLLOWING
AMENDMENT No. TO H. 3743
(COUNCIL\AGM\18869AB11):

REFERENCE IS TO THE BILL AS INTRODUCED.

**AMEND THE BILL, AS AND IF AMENDED, PAGE 6,
LINES 2-10, BY DELETING SECTION 5 IN ITS
ENTIRETY.**

**RENUMBER SECTIONS TO CONFORM.
AMEND TITLE TO CONFORM.**

FISCAL IMPACT STATEMENT ON BILL NO. **H3743**

(Doc. No. 18724ab11.docx)

TO: The Honorable Daniel T. "Dan" Cooper, Chairperson, House Ways and Means Committee
FROM: Office of State Budget, Budget and Control Board
ANALYSTS: Nicole Ford-Jennings
DATE: March 8, 2011 SBD: 2011188

AUTHOR: Representative Harrell PRIMARY CODE CITE: 13-17-89
SUBJECT: South Carolina Research Authority

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:
\$0 (No additional expenditures or savings are expected)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:
\$0 (No additional expenditures or savings are expected)

BILL SUMMARY:

House Bill 3743 amends Title 13, Chapter 17 of the Code of Laws, 1976, by adding Section 13-17-89 related to the South Carolina Research Authority (SCRA). If enacted, the Bill would make limited changes with regard to SCRA's authority and make clear that in no event could there be a pledge of the credit or taxing power of the State or political subdivision of the State in connection with provisions of the chapter. The legislation would revise provisions for costs associated with innovation centers established by the authority. In addition, provisions would revise the membership structure, terms of the board of trustees of the SCRA, and board procedures.

EXPLANATION OF IMPACT:

The Commission on Higher Education indicates this Bill will have no impact on the General Fund of the State or on Federal and/or Other Funds.

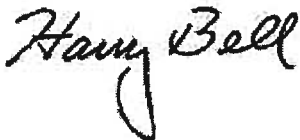
LOCAL GOVERNMENT IMPACT:

None.

SPECIAL NOTES:

None.

Approved by:



Harry Bell
Assistant Director, Office of State Budget

South Carolina General Assembly
119th Session, 2011-2012

H. 3743

STATUS INFORMATION

General Bill

Sponsors: Reps. Harrell, Lucas, Battle, Bingham, Cooper, Harrison and Pitts

Document Path: I:\council\bill\agm\18724ab11.docx

Introduced in the House on February 24, 2011

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

Summary: Research authority

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
2/24/2011	House	Introduced and read first time (<u>House Journal-page 9</u>)
2/24/2011	House	Referred to Committee on Ways and Means (<u>House Journal-page 9</u>)

View the latest legislative information at the LPITS web site

VERSIONS OF THIS BILL

2/24/2011

1
2
3
4
5
6
7
8
9

A BILL

10

11 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
12 1976, BY ADDING SECTION 13-17-89 SO AS TO PROVIDE
13 THAT NO PROVISION IN CHAPTER 17, TITLE 13 MAY BE
14 CONSTRUED TO AUTHORIZE THE SOUTH CAROLINA
15 RESEARCH AUTHORITY TO COMMIT THE CREDIT AND
16 TAXING POWER OF THE STATE, TO PROVIDE A WRITTEN
17 NOTICE REQUIREMENT WHEN THE AUTHORITY HAS
18 CERTAIN RELATIONSHIPS WITH A NONPROFIT ENTITY
19 THAT ESTABLISHES A FOR-PROFIT ENTITY, AND TO
20 PROVIDE THAT A FAILURE TO PROVIDE THIS NOTICE
21 MAY NOT BE CONSTRUED TO INDICATE THE
22 AUTHORITY MAY PLEDGE THE CREDIT AND TAXING
23 POWER OF THE STATE; TO AMEND SECTION 13-17-40, AS
24 AMENDED, RELATING TO THE MEMBERSHIP AND
25 TERMS OF THE BOARD OF TRUSTEES AND EXECUTIVE
26 COMMITTEE OF THE AUTHORITY, SO AS TO PROVIDE
27 FOR THE ELECTION OF TWO ADDITIONAL TRUSTEES, TO
28 PERMIT A UNIVERSITY PRESIDENT WHO IS AN EX
29 OFFICIO MEMBER OF THE BOARD TO DESIGNATE THE
30 CHIEF RESEARCH OFFICER OF HIS UNIVERSITY TO
31 PARTICIPATE AND VOTE IN NO MORE THAN TWO
32 MEETINGS OF THE EXECUTIVE COMMITTEE EACH
33 YEAR, TO ALLOW THE EXECUTIVE COMMITTEE TO
34 ELECT A VICE CHAIRMAN WITH POWERS AND DUTIES
35 PROVIDED BY THE EXECUTIVE COMMITTEE, TO
36 PROVIDE THE VICE CHAIRMAN SERVES AT THE
37 PLEASURE OF THE EXECUTIVE COMMITTEE, TO
38 PROVIDE FOR MEMBER TERMS, FILLING OF A
39 VACANCY, AND REMOVAL OF AN EXECUTIVE
40 COMMITTEE MEMBER, AND TO DELETE ARCAINE
41 REFERENCES; TO AMEND SECTION 13-17-70, AS
42 AMENDED, RELATING TO THE POWERS OF THE BOARD

1 OF TRUSTEES OF THE AUTHORITY, SO AS TO PROVIDE
2 THE BOARD MAY PROVIDE GUARANTEES AS SECURITY
3 FOR CERTAIN OBLIGATIONS; TO AMEND SECTION
4 13-17-87, AS AMENDED, RELATING TO COSTS
5 ASSOCIATED WITH INNOVATION CENTERS
6 ESTABLISHED BY THE AUTHORITY, SO AS TO MAKE
7 CERTAIN FINANCING OPTIONAL RATHER THAN
8 MANDATORY, TO EXPAND THE SOURCES OF FUNDING
9 AVAILABLE FOR FINANCING THESE COSTS, AND TO
10 PROHIBIT THE USE OF A PLEDGE OF CREDIT AND
11 TAXING POWER OF THE STATE OR A POLITICAL
12 SUBDIVISION OF THE STATE TO FINANCE THESE COSTS;
13 TO AMEND SECTION 13-17-88, RELATING TO THE
14 IMPLEMENTATION OF THE CERTAIN SECTIONS OF THE
15 CODE OF LAWS BY THE AUTHORITY, SO AS TO PROVIDE
16 THE AUTHORITY MAY EXPEND FUNDS REFERENCED IN
17 THE INNOVATION CENTERS ACT OF 2005 AND THE
18 INDUSTRY PARTNERS ACT OF 2006 IN A CERTAIN
19 MANNER.

20

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

23

24 SECTION 1. Chapter 17, Title 13 of the 1976 Code is amended by
25 adding:

26

27 "Section 13-17-89. A provision of this chapter may not be
28 construed to authorize the SCRA to commit the credit and taxing
29 power of the State. Where the SCRA establishes, controls, funds,
30 supports, or is otherwise involved with a nonprofit entity or
31 appoints some or all of the directors of a nonprofit entity, and this
32 nonprofit entity has established or establishes a for-profit entity,
33 has acquired or acquires an ownership interest in a for-profit entity,
34 the SCRA shall provide written notice to both this nonprofit entity
35 and this for-profit entity that the SCRA may not pledge the credit
36 and taxing power of the State. A failure to provide this written
37 notice may not be construed to indicate the SCRA may pledge the
38 credit and taxing power of the State."

39

40 SECTION 2. Section 13-17-40 of the 1976 Code, as last amended
41 by Act 83 of 2007, is further amended to read:

42

1 “Section 13-17-40. (A)(1) The SCRA shall consist of a board of
2 twenty-four trustees that includes the following ex officio
3 members: President of the Council of Private Colleges of South
4 Carolina, Chairman of the South Carolina Commission on Higher
5 Education, President of Clemson University, President of the
6 Medical University of South Carolina, President of South Carolina
7 State College, President of the University of South Carolina,
8 Director of Savannah River National Laboratory, President of
9 Francis Marion University, Chairman of the State Board for
10 Technical and Comprehensive Education, Governor of South
11 Carolina or his designee, Chairman of the House Ways and Means
12 Committee’s designee, Chairman of the Senate Finance
13 Committee’ s designee, and the Secretary of Commerce or his
14 designee.

15 (2) The Governor shall name the chairman who must not be
16 a public official and who serves at the pleasure of the Governor.
17 The remaining ten trustees must be elected by the board of trustees
18 from a list of nominees submitted by an ad hoc committee named
19 by the chairman and composed of the members serving as elected
20 trustees. ~~The original elected trustees must be the same members~~
21 ~~serving as elected trustees on the board on January 1, 2005.~~ Each
22 of the Congressional Districts of South Carolina has must have at
23 least one of the ten trustees.

24 (3) Terms of elected trustees are for four years, and half
25 expire every two years. An elected trustee may not serve more
26 than two consecutive four-year elected terms. Vacancies must be
27 filled for the unexpired term in the manner of original
28 appointment. A vacancy occurs upon the expiration of the term of
29 service, death, resignation, disqualification, or removal of a trustee.

30 (B)(1) The President of Clemson University, President of the
31 Medical University of South Carolina, President of the University
32 of South Carolina at Columbia, the Governor or his designee, the
33 Chairman of the House Ways and Means Committee’s designee,
34 the Chairman of the Senate Finance Committee’s designee, and the
35 chairman of the board of trustees shall serve as on the executive
36 committee of the board of trustees. The executive committee shall
37 elect two additional members of the executive committee, who
38 shall be trustees at the time of their election, by the affirmative
39 vote of a majority of the members of the executive committee then
40 serving. Each of the three university presidents, with respect to no
41 more than two executive committee meetings each calendar year,
42 may designate in his place that university’s chief research officer,
43 as determined in the sole discretion of the designating president, to

1 participate in and vote at executive committee meetings specified
2 in the designation. The executive committee is authorized but not
3 required to elect a vice chairman, with powers and duties as the
4 executive committee may provide. The vice chairman shall serve
5 at the pleasure of the executive committee. The executive
6 committee has all powers and authority of the board of trustees.
7 The board shall have an advisory role only and shall advise the
8 executive committee of the actions recommended by the board.

9 (2) Terms of elected executive committee members are for
10 four years, and half expire every two years. An elected executive
11 committee member may not serve more than two consecutive
12 four-year elected terms. A vacancy must be filled for the
13 unexpired term in the manner of original election, and occurs upon
14 the expiration of the term of service, death, resignation,
15 disqualification, or removal of an elected executive committee
16 member. An elected executive committee member need not
17 continue to be a trustee in order to complete his term as an
18 executive committee member. An elected executive committee
19 member may be removed from office by the affirmative vote of
20 two-thirds of the executive committee members serving.

21 (3) The executive committee shall appoint a business and
22 science advisory board to include representatives from each
23 research university, the venture capital industry, relevant industry
24 leaders, and the Department of Commerce. The purpose of the
25 advisory board is to advise the board of trustees when requested by
26 it. The advisory board shall ensure that the authority has the input
27 of the research and business communities in implementing its
28 programs and services.

29 (C) A trustee may not receive a salary for his services as a
30 trustee; however, a trustee must be reimbursed for actual expenses
31 incurred in service to the authority.

32 (D) The board annually shall submit a report to the General
33 Assembly including information on all acts of the board of trustees
34 together with a financial statement and full information as to the
35 work of the authority.

36 (E) The board shall hire an executive director of the SCRA
37 who has administrative responsibility for the SCRA. The
38 executive director shall maintain, through a designated agent,
39 accurate and complete books and records of account, custody, and
40 responsibility for the property and funds of the authority and
41 control over the authority bank account. The executive director,
42 with the approval of the board, has the power to appoint officers
43 and employees, to prescribe their duties, and to fix their

1 compensation. The board of trustees shall select a reputable
2 certified public accountant to audit the books of account at least
3 once each year.

4 (F) Regular meetings of the board of trustees must be held at a
5 time and place the chairman may determine. Special meetings of
6 the board of trustees may be called by the chairman when
7 reasonable notice is given.”

8
9 SECTION 3. Section 13-17-70(12) of the 1976 Code, as last
10 amended by Act 133 of 2005, is further amended to read:

11
12 “(12) to provide guarantees as security for notes, bonds,
13 evidences of indebtedness, or other obligations of affiliates as
14 defined in Section 35-2-201, or of other entities with respect to
15 which the authority has the right to appoint one or more board
16 members, and to mortgage, pledge, hypothecate, or otherwise
17 encumber the property, real, personal, or mixed, or facilities, or
18 revenues of the authority as security for or relating to these
19 guarantees, or for notes, bonds, evidences of indebtedness, or other
20 obligations of the authority; provided, the authority shall have no
21 authority to pledge the credit and the taxing power of the State or
22 any of its political subdivisions;”

23
24 SECTION 4. Section 13-17-87(E) of the 1976 Code, as added by
25 Act 133 of 2005, is amended to read:

26
27 “(E) Costs associated with the physical space for the innovation
28 centers including, but not limited to, the costs to acquire, lease, or
29 build the physical space and to ~~up-fit~~ up fit the physical space,
30 ~~must~~ may be financed through the issuance of general obligation
31 debt to the maximum extent allowed by Chapter 51 of, Title 11,
32 the South Carolina Research University Infrastructure Act, ~~or~~ by
33 private match funding, from the budget of the authority, or by
34 other means; provided, however, that in no event shall there be a
35 pledge of the credit and taxing power of the State or a political
36 subdivision of the State in connection with this financing. ~~Other~~
37 ~~costs associated with the innovation centers must be funded from~~
38 ~~the budget of the authority, as specified elsewhere in this chapter.~~
39 The facilities and programs at each site may be tailored to the
40 predominant research focuses of that area. Each may contain wet
41 and dry laboratory space, office space, prototype production
42 facilities, pilot operations, clean rooms, and other specialized
43 facilities.”

1
2
3
4
5
6
7
8
9
10
11
12
13
14

SECTION 5. Section 13-17-88(F) of the 1976 Code, as added by Act 319 of 2006, is amended to read:

“(F) ~~The South Carolina Research Authority (SCRA)~~ SCRA may implement the provisions of this section and Section 13-17-87, pursuant to Section 13-17-180. The SCRA may expend funds referenced in Section 13-17-87 of the Innovation Centers Act of 2005 and Section 13-17-88 of the Industry Partners Act of 2006 for the purposes set forth pursuant to either section.”

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

----XX----