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Legislation of Interest - 2008 Session of the General Assembly

(Report prepared as of 6/4/08)

The 2008 session of the South Carolina General Assembly is scheduled to end *sine die* on June 5, 2008. On Wednesday, June 4, the House and Senate approved a concurrent resolution, S.838, that would enable the General Assembly to return for not more than three days during June 17 through June 27 for purposes of considering vetoes, appointments, *sine die* resolutions, local legislation, sympathy and congratulatory resolutions, H.3575 and receive conference and free conference reports.

The following listing provides information about legislation relating to higher education that has been passed during the 2008 session or is pending as of June 4, 2008. The listing below is not intended to be complete. Text that is bolded and blue is hyperlinked to the latest version of the legislation. Bills and other information may also be accessed from the webpage of the SC Legislature at <http://www.scstatehouse.net/html-pages/legpage.html>. Additional information about activity during the session may also be found on CHE's website. For weekly updates prepared by CHIE staff, see <http://www.che.sc.gov/InfoCntr/CHE/LegislativeUpdates.htm> and for information on other bills, see http://www.che.sc.gov/InfoCntr/Legisl/HigherEd_Legis_List.xls.

The 2008 Session is the second regular session of the 117th South Carolina General Assembly. When the session ends *sine die*, all legislation that has not been enacted will die and must be re-introduced in the upcoming 2009 session to receive any future consideration.

Bills ENACTED During the 2008 Session

- **Act No. 178 (H.3379)** amends 59-104-20(F) relating to Palmetto Fellows and 59-149-50(A) LIFE eligibility in regard to calculating high school GPA and rank for SC resident students who have attended high school out of state. This legislation, enacted February 13, 2008, codifies a budget proviso that had been included in the budget as a temporary provision since FY 2006-07. Because the legislation passed, the temporary proviso 6.22 was deleted from the FY 2008-09 budget recommendations.
- **H.4400** relates to immigration reform, an issue that was debated throughout the session. On May 29, 2008, H.4400 was approved by the House and Senate and ratified. H.4400 includes a provision that bars those unlawfully present in the United States from entering public colleges and universities and from receiving any type of state support including scholarships and grants. These provisions are found in Section 17 of H.4400. The bill is effective upon signature of the Governor. It was ratified on May 29, 2008, and signed into law by the Governor on June 4, 2008.
- **Act No. 235 (H.4408)**, On May 22, 2008, this bill became law without the Governor's signature. It amends Section 59-104-25 and 59-149-15 relating to the Palmetto Fellows and LIFE Scholarship stipends for students majoring in eligible mathematics/science/engineering/healthcare programs so as to provide flexibility in the required 14 credit hours in math and life and physical sciences for eligibility. Prior to the passage of this bill, to be eligible, freshman were required to take 14 credit hours in math and/or life and physical sciences with at least 6 hours in math and at least 6 hours in the life and physical sciences. The change retains the 14 credit hour requirement during the freshman year, but allows students to take any combination of courses in math and/or life and physical sciences to meet the 14 hour requirement.
- **H.4520 (Act # not yet assigned)** relates to the authority and process by which USC could issue revenue bonds to provide funds for a new business school facility and renovation of the Close-

Hipp building and became law as of May 22, 2008, after the House and Senate overrode the Governor's veto.

- **Act No. 215 (H.4680)** relates to the addition of representation from Cherokee and Union Counties to the Spartanburg County Commission for Technical and Community Education and was signed into law effective May 13, 2008.
- **Act No. 174 (S.282)** relates to facilities construction and amends code relating to alternative construction delivery such that design-build is placed on the same level as design-bid-build. The bill became effective after being signed into law by the Governor on February 4, 2008.
- **S.793 (Act # not assigned)** relates to the Board of Trustees for Coastal Carolina University and provides that they may meet in locations other than Conway and that all property, real and personal, and rights of every description vested in Coastal Carolina University located in Horry County shall be vested in Coastal Carolina University. Bill signed into law by Governor on February 4, 2008.
- **S.1034**, a joint resolution was enacted February 19, 2008, to change the reporting date from February 1, 2008, to September 15, 2008, of the Higher Education Study Committee. The Study Committee was established by an FY 2007-08 Part 1B budget proviso, 5A.28.
- **Act 28 (S.1077)**: Amends 11-35-40 of the SC Code of Laws relating to procurement by exempting the licenses granted by the FCC to Greenville and Trident Technical Colleges that authorize the use of educational broadband service spectrum. The bill was signed into law on May 13, 2008.

Bills RATIFIED with GOVERNOR's ACTION PENDING

- **S.75**, relates to the closing of the Tuition Prepayment Program, has passed the Senate and the House. The bill was amended in keeping with a FY 2007-08 budget proviso, 76.13, that closed the program to new enrollees as of fall 2007. The bill was ratified on May 29, 2008, and awaits the Governor's action.
- **S.950** amends 59-53-630 relating to the powers of Denmark Technical College Area Commission so as to allow the Commission to enter into ground lease arrangements with private entities upon approval of the Budget and Control Board. The bill was ratified on May 29, 2008, and awaits the Governor's consideration.
- **S.1022** re-enacts legislation that was passed during the 2007 session relating to the Critical Needs Nursing Initiative. The constitutionality of the bill that passed last year and enacted this initiative is under consideration by the SC Supreme Court after a lawsuit was brought forward. S.1022 was ratified on May 29, 2008, and awaits consideration of the Governor.

Bills ENROLLED FOR RATIFICATION

- **S.1007** amends Chapter 6 of Title 34 of the SC Code of Laws relating to the SC Uniform Management of Institutional Funds Act to provide for updated uniform standards and other revisions. The bill was enrolled for ratification on May 29, 2008.
- **S.1115** amends 59-112-40 of the SC Code of Laws relating to in-state tuition at public colleges and universities for military personnel and their dependents. It allows dependents of military personnel to continue receiving in-state tuition in the event that the person they are dependent

upon is re-assigned. Current law provides for only a one-year period in such instances. The bill was enrolled for ratification on May 29, 2008.

- **S.1232** is the Education Capital Improvements Sales and Use Tax Act and if enacted, allows counties to seek referendum approval of a 1% increase in sales and use tax for specific education capital improvements. It provides that a portion of the revenues may be shared with public colleges and universities pursuant to a memorandum of agreement. The bill is restricted to counties with certain revenue thresholds. The bill was enrolled for ratification on May 29, 2008.
- Centers of Economic Excellence (CoEE) legislation, **H.4494** and a related bill **S.1252**, was considered during the session. **S.1252 was the bill advanced and was approved and enrolled for ratification on May 29, 2008.** Before being passed, S.1252 was amended to include the language of H.4494 as passed earlier in the session by the House. Several additional amendments to the language as passed initially by the House were included in S.1252 as passed. These amendments included: 1) an amendment to Section 2-75-10 to include two new appointments, one by the Senate Finance Chair and one by the House Ways and Means Chair, to the Board for total membership of eleven; 2) an amendment to Section 2-75-10 to also reflect a deadline of October 1 for the submission of an annual report and to specify that the report is to include, but not limited to, an accounting of all awards up to the previous fiscal year; 3) an amendment to Section 2-75-30 to reflect an annual appropriation of \$30 million, but only if 80% of the total appropriations have been awarded by June 30 of the previous fiscal year, and another amendment to this section to specify that interest is included in the calculation only if the board uses it for state awards; and 4) an amendment to Section 2-75-30 to include language from the CoEE guidelines relating to the three-step process for considering proposals. Before passing, S.1252 was also amended to include a section pertaining to athletic bond revenue authority for Francis Marion University. The effective date of the legislation is upon signature of the Governor. As noted above, the bill has been enrolled for ratification, and once ratified the bill will await the Governor's action.
- **H.4766** relates to energy conservation plans of state agencies. It amends Section 48-52-620 relating to energy conservation plans for state agencies, so as to provide specific energy consumption reduction goals and reporting requirements, to provide an exemption from annual reporting requirements for an agency implementing all available, cost-effective energy conservation measures, and to define the term "energy consumption"; to amend section 48-52-640, relating to purchase of energy conservation products by a state agency, so as to provide that the state energy office may certify for procurement only a product that meets or exceeds federal energy star standards, and to require replacement of an incandescent light bulb used by a state agency with a compact fluorescent bulb when the incandescent bulb needs replacing, among other things. The legislation exempts higher education facilities greater than 10,000 gross square feet and higher education facilities for athletics and research. Also exempt are certain technical college facilities that are used for technical training and education programs. The bill was ratified on June 4, 2008.

Other Bills to Watch

- **H.4953**, relating to the establishment of the SC LightRail Consortium, has passed the House and is presently under consideration of Senate. It was amended by the Senate and received its second reading in the Senate on June 4, 2008.
- **H.4372**, would provide Technical College Enterprise Campus authority statewide. The bill passed the House and received a favorable report with amendments from Senate Education. As

of June 4, the bill had been reported out of Senate Education to the Senate and awaits further consideration of the Senate.

- **S.530**, the budget proviso codification bill, would put into permanent law a number of provisos that have been included annually in the appropriations act. It includes a number of higher education provisos, several of which had been struck from the appropriations act for the upcoming year. The bill was sent to conference committee on June 4 so that Senate and House differences could be worked out.

FY 2008-09 New or Amended Budget Provisos of Interest

The following new or amended temporary provisions (Part 1B Provisos) are included in FY 2008-09 budget recommendations as approved by the House and Senate on 5/22/08. Approval of these provisions for FY 2008-09 is pending the Governor's veto considerations and final action of the General Assembly. For a CHE summary of budget recommendations pertaining to higher education as approved by the House and Senate, see http://www.chc.sc.gov/InfoCntr/Legisl/LegisUpdate_May19toMay23_08.pdf

The full text of the proviso is provided below. New language is underlined and italicized. Strikethrough denotes deleted text. Provisos 6.26 and 6.28 were requested by CHE.

- **6.26 (CHE: Critical Needs Nursing Initiative)** The funds appropriated to the Commission on Higher Education for the Critical Needs Nursing Initiative shall be used ~~for nursing faculty salary enhancements~~ the purpose of implementing the Critical Needs Nursing Initiative Fund per Section 59-110-10, et seq., of the 1976 Code of Laws, as amended. ~~The commission, upon consultation with members of the Advisory Committee on Academic Programs (ACAP) from institutions with accredited nursing programs and the chairperson, or designee, of the South Carolina Council of Deans and Directors in Nursing Education, shall determine and distribute the funds~~ Funds allocated for nursing faculty and faculty salary enhancements and new nursing faculty shall be permanently transferred to the affected institutions where such faculty are employed. The governing body of the institution, pursuant to its procedures, shall then allocate these enhancements among its affected faculty in such amounts as it determines appropriate consistent with their salary guidelines.
- **6.28 (CHE: Need-Based Grant Allocation Methodology)** Need-based grant funds for public institutions must be allocated using a methodology that considers state resident Pell Grant recipients such that each public institution shall receive an amount sufficient to provide a similar level of support per state resident Pell recipient when compared to tuition and required fees. However, no public institution shall receive less funding than would be provided under the methodology used in FY 2007-08.
- **6.29 (CIE: In-State Tuition)** Beginning in Fiscal Year 2008-09, independent persons who reside in and have been domiciled in South Carolina for fewer than twelve months with an intention of making a permanent home therein pursuant to Title 59 and Chapter 112, and their dependents, may be considered eligible for in-state tuition and fees as long as such independent person is employed on a full-time basis within an adjoining county in North Carolina or Georgia. The Commission on Higher Education shall explore and establish, if possible, a reciprocal agreement for persons full-time employed in SC but domiciled in an adjoining county in North Carolina or Georgia and their dependents.

NOTE: Governor vetoed 6.29. As of June 4, the House has sustained the veto.

- 6.30 (CHE: Tuition Age) For Fiscal Year 2008-2009, the age limitation for those children of certain war veterans who may be admitted to any state-supported college, university, or post high school technical education institution free of tuition is suspended for eligible children that successfully appeal the Division of Veterans Affairs on the grounds of a serious extenuating health condition.
- ~~6.22 (CHE: Out-Of-State-Eligibility) For the current fiscal year, students who are South Carolina residents and enrolled in out-of-state high schools may be eligible to receive the Palmetto Fellows, Life, and Hope scholarships utilizing criteria for in-state students. For the purposes of meeting the rank criteria for the Palmetto Fellows and LIFE scholarships, the existing high school rank may be used provided it is calculated per a state-approved, standardized grading scale at the respective out-of-state high school.~~

Note: Proviso 6.22 was codified and therefore, deleted. See above report on Act 178, H.3394.

CHE Regulations Approved During the Session

- *Document #3143, CHE Free tuition for Residents 60 Years of Age and Older* – For a copy of the regulation, see <http://www.scstatehouse.net/regs/3143.doc> . Regulation approved by expiration date on 5/7/08 with an effective date of 5/23/08. Establishes regulations pursuant to authority in 59-111-330 regarding free tuition for residents sixty years of age. The regulation provides definitions institutions may use to ensure consistent application of the provisions of 59-111-330 and establishes guidelines for institutional processing of inquiries and appeals.
- *Document #3129, CHE Licensing Criteria* – For a copy of the regulation, see <http://www.scstatehouse.net/regs/3129.doc> . Regulation approved by expiration date on 5/14/08 with an effective date of 6/27/08. Revises regulations to align the accreditation requirement for in-state and out-of-state institutions and to provide additional accountability and credibility that is associated with accreditation and thereby provide additional consumer protection for consumers of private postsecondary education.
- *Document #3170, CHE Nonpublic Postsecondary Institution Licensing, Use of Surety Bond Funds* – For a copy of the regulation, see <http://www.scstatehouse.net/regs/3170.doc> . Regulation approved by expiration date on 5/14/08 with an effective date of 6/27/08. Aligns regulation with passage of Act 20 of 2007 (S.321) that amended CHE authority in regard to the use of surety bonds that are posted by institutions licensed to operate in SC.

Pending CHE Regulations Submitted for General Assembly Consideration

- *Document #3172, SC Residency Program* – See <http://www.scstatehouse.net/regs/3172.doc> . Legislative review period expires June 4, 2008. Revises R.62-600 to clarify policies and procedures for administering residency classification for purposes of determination rates of tuition and fees.
- *Document #3173, SC HIOPE Scholarship* – See <http://www.scstatehouse.net/regs/3173.doc> . Legislative review period expires June 4, 2008. Revises 62-900.85-140 to clarify policies and procedures for administering the program and conforms regulations to statutory changes passed during the 2007 session.

- *Document #3185, SC Need-based Grants Program – See <http://www.scstatehouse.net/regs/3185.doc> . Legislative review period expires June 4, 2008.* Revises 62-450-505 to clarify policies and procedures for administering the program and conforms regulations to statutory changes passed during the 2007 session.
- *Document #3196, SC National Guard Tuition Assistance Program – See <http://www.scstatehouse.net/regs/3196.doc> . Legislative review period expires March 23, 2009.* In accordance with Act 40 of 2007 that amends Chapter 114, Title 59, Code of Laws of South Carolina, 1976, CHE proposes to add R.62-250 through R.62-263 to provide for the college assistance program for National Guard members that is to be administered by the Commission on Higher Education.

Pending SDE Regulations of Interest Submitted for General Assembly Consideration

- *Document #3191, Advanced Placement – See <http://www.scstatehouse.net/regs/3191.doc> . Legislative review period expires 2/1/09.* As stated in the document, the purpose of this request is to promulgate amendments to the regulation requiring teachers to take a three-hour graduate credit course to earn the endorsement to teach Advanced Placement (AP courses). *The review period expires 2/1/09.*
- *Document #3192, Requirements for Additional Areas of Certification – See <http://www.scstatehouse.net/regs/3192.doc> . Legislative review period expires 2/1/09.* As stated in the this document, this regulation is being amended to facilitate the certification of individuals attempting to qualify for middle-level certification, which is scheduled for statewide implementation July 1, 2009, and to provide for add-on certification requirements for teachers of American Sign Language.