

IN THE SENATE

Introduced by Senator Leatherman

Senate No. 147

A BILL

TO AMEND TITLE 59, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EDUCATION, BY ADDING CHAPTER 108 SO AS TO ESTABLISH THE SOUTH CAROLINA STATE UNIVERSITIES AND COLLEGES BOARD OF REGENTS; TO PROVIDE FOR THE SERVICE OF TRUSTEES OF "CONSTITUENT INSTITUTIONS", AS DEFINED IN THAT CHAPTER; TO REPEAL CHAPTER 103 OF TITLE 59, RELATING TO THE STATE COMMISSION ON HIGHER EDUCATION, CHAPTER 104 OF TITLE 59, RELATING TO INITIATIVES FOR RESEARCH AND ACADEMIC EXCELLENCE AND THE STATE COMMISSION ON HIGHER EDUCATION, CHAPTER 112 OF TITLE 59, RELATING TO THE DETERMINATION OF RATES OF TUITION AND FEES FOR POST-SECONDARY EDUCATIONAL INSTITUTIONS, CHAPTER 113 OF TITLE 59, RELATING TO TUITION GRANTS AND THE HIGHER EDUCATION TUITION GRANT COMMISSION, SECTION 5 OF ACT 629 OF 1988, RELATING TO TERMS OF MEMBERS OF THE STATE COMMISSION ON HIGHER EDUCATION, AND SECTION 6 OF ACT 629 OF 1988, RELATING TO DIRECTING THE CODE COMMISSIONER TO CHANGE CERTAIN REFERENCES IN THE 1976 CODE FROM THE "HIGHER EDUCATION TUITION GRANT COMMITTEE" TO THE "HIGHER EDUCATION TUITION GRANT COMMISSION".

In the Senate

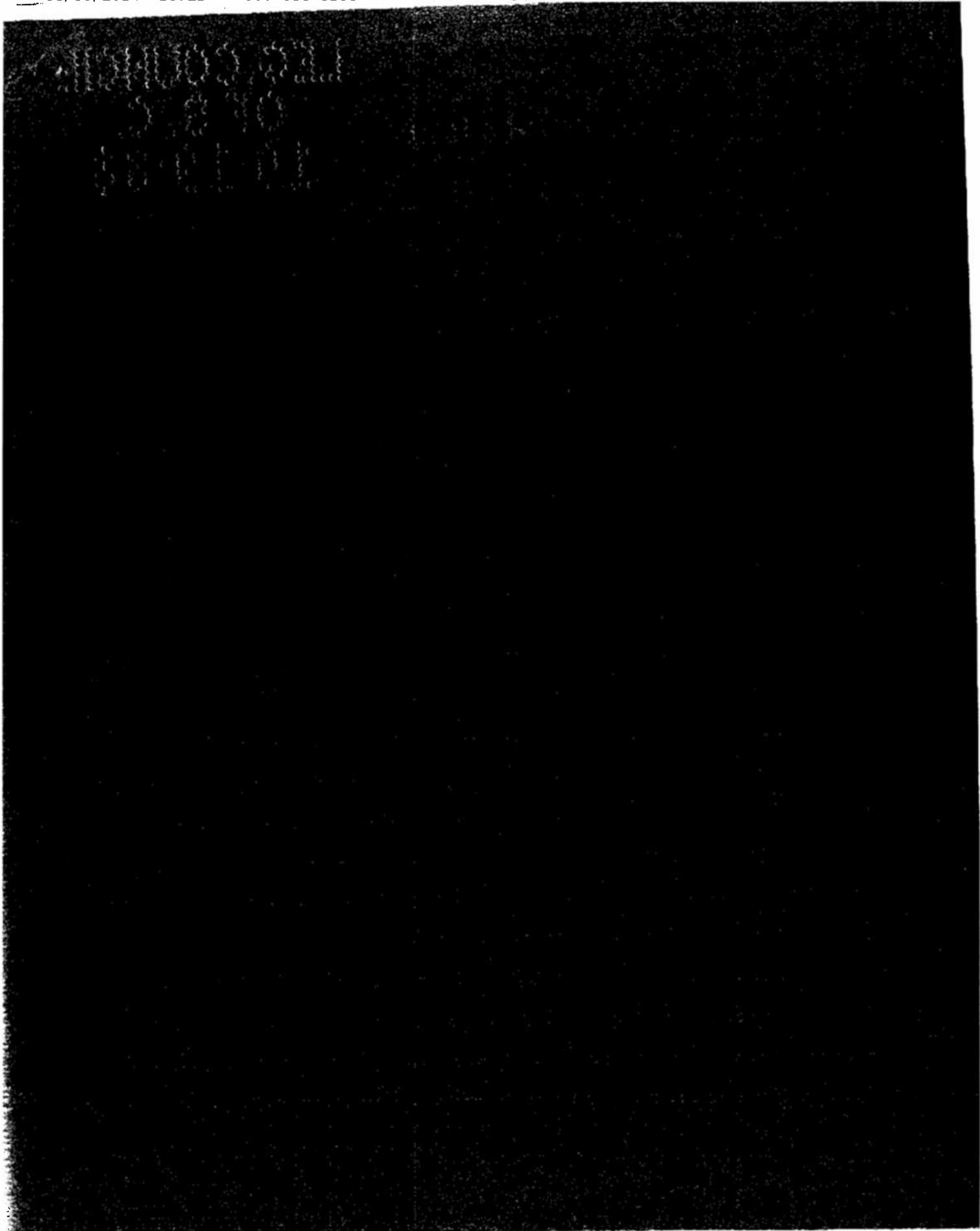
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Education
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In the House of Representatives

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A BILL

TO AMEND TITLE 59, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO EDUCATION, BY ADDING CHAPTER 108 SO AS TO ESTABLISH THE SOUTH CAROLINA STATE UNIVERSITIES AND COLLEGES BOARD OF REGENTS; TO PROVIDE FOR THE SERVICE OF TRUSTEES OF "CONSTITUENT INSTITUTIONS", AS DEFINED IN THAT CHAPTER; TO REPEAL CHAPTER 103 OF TITLE 59, RELATING TO THE STATE COMMISSION ON HIGHER EDUCATION, CHAPTER 104 OF TITLE 59, RELATING TO INITIATIVES FOR RESEARCH AND ACADEMIC EXCELLENCE AND THE STATE COMMISSION ON HIGHER EDUCATION, CHAPTER 112 OF TITLE 59, RELATING TO THE DETERMINATION OF RATES OF TUITION AND FEES FOR POST-SECONDARY EDUCATIONAL INSTITUTIONS, CHAPTER 113 OF TITLE 59, RELATING TO TUITION GRANTS AND THE HIGHER EDUCATION TUITION GRANT COMMISSION, SECTION 5 OF ACT 629 OF 1988, RELATING TO TERMS OF MEMBERS OF THE STATE COMMISSION ON HIGHER EDUCATION, AND SECTION 6 OF ACT 629 OF 1988, RELATING TO DIRECTING THE CODE COMMISSIONER TO CHANGE CERTAIN REFERENCES IN THE 1976 CODE FROM THE "HIGHER EDUCATION TUITION GRANT COMMITTEE" TO THE "HIGHER EDUCATION TUITION GRANT COMMISSION".

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

SECTION 1. Title 59 of the 1976 Code is amended by adding:

"CHAPTER 108

South Carolina State Universities and
Colleges Board of Regents

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Section 59-108-10. In order to foster the development of a coordinated system of higher education, to improve the quality of education, to extend its benefits, and to encourage an economical use of the state's resources, the South Carolina system of higher education is redefined in accordance with the provisions of this chapter.

Section 59-108-20. As used in this chapter, unless the context clearly requires otherwise:

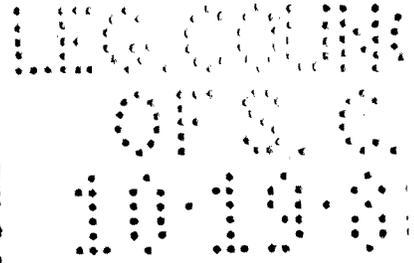
(1) 'Board' means the South Carolina State Universities and Colleges Board of Regents.

(2) 'Board of Trustees' means the board of trustees of a constituent institution, including the Board of Visitors of The Citadel.

(3) 'Constituent institution' or 'institution' means the University of South Carolina at Columbia and all branch campuses, Clemson University, The Citadel, the College of Charleston, the Medical University of South Carolina, South Carolina State College, Francis Marion College, Winthrop College, and Lander College and any other four-year, state-supported college or university created in this State.

Section 59-108-30. There is created a South Carolina State Universities and Colleges Board of Regents, which is known as the 'State Board of Regents' and which is a body corporate and politic and which by that name has the power to:

- (1) have perpetual succession;
- (2) sue and be sued in the corporate name;
- (3) have a common seal and to alter it at pleasure;
- (4) make contracts and to have, to hold, to purchase, and to lease real estate and personal property for corporate purposes, and to sell and dispose of personal property and any buildings that are considered by it as surplus property or not further needed and any buildings that it may



need to do away with for the purpose of making room for other construction. However, the board does not have the power to sell or otherwise dispose of any real estate, other than buildings, except with the consent of the General Assembly;

(5) elect from its membership for two-year terms a chairman, vice-chairman, and secretary of the board to serve until their successors have been elected and qualify. However, no person may serve as chairman for more than four years in succession;

(6) take, demand, receive, and possess all monies, goods, and chattels that may be given for the use of a constituent institution and to apply the same according to the will of the donors;

(7) receive, possess, enjoy, and retain forever by gift, purchase, or devise all real and personal estate and funds of any kind, nature, or quality in special trust and confidence that the same, or the profits from them, must be applied to and for the use and purpose of establishing and endowing the constituent institutions;

(8) do all things which usually are done by bodies corporate and politic or anything necessary for the promotion of learning and virtue.

Section 59-108-40. The board is composed of the University of South Carolina and its branch campuses, Clemson University, The Citadel, the Medical University of South Carolina, South Carolina State College, Francis Marion College, Winthrop College, the College of Charleston, and Lander College.

Section 59-108-50. The board consists of the following members who shall serve until their successors are elected or appointed and qualify:

(1) the Governor of the State, or his designee, ex officio;

(2) the State Superintendent of Education, or

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his designee, ex officio;

(3) the chairman of the Senate Committee on Education or his designee from that committee, ex officio;

(4) the chairman of the House Committee on Education and Public Works, or his designee from that committee, ex officio;

(5) three persons elected by and from the membership of the board of trustees of each of the constituent institutions with an enrollment of ten thousand students or over, including branch campuses; two persons elected by and from the membership of the board of trustees of each of the constituent institutions with an enrollment of at least five thousand but less than ten thousand students; and one person elected by and from the membership of the board of trustees of each of the constituent institutions with an enrollment of less than five thousand students;

(6) one person from each judicial circuit in this State to be elected by the general vote of the General Assembly;

(7) one person who must be appointed by the Governor from the State at large.

Section 59-108-60. The regular term of office of each of the members elected by the boards of trustees of the constituent institutions is three years, beginning not earlier than July 1, 1989, and ending June 30, 1992. After that date, the respective boards of trustees of the constituent institutions shall conduct elections every three years for the purpose of selecting successors to those members of the State Board of Regents elected by them whose terms are then expiring. The boards of trustees of the constituent institutions shall elect members based on merit regardless of race, color, creed, or gender and shall strive to insure that membership of the State Board of Regents is representative of all the citizens of South Carolina.

The regular term of office of the members of

the board elected by the General Assembly is two years, beginning not earlier than July 1, 1989, and continuing until June 30, 1991. After that date, the General Assembly shall conduct elections every two years for the purpose of electing successors to those members of the board whose terms are then expiring. The General Assembly shall elect members based on merit regardless of race, color, creed, or gender and shall strive to insure that membership of the board is representative of all the citizens of South Carolina.

The term of office of the at-large member appointed by the Governor is effective upon certification to the Secretary of State and is four years. The Governor shall make the appointment based on merit regardless of race, color, creed, or gender and shall strive to insure that the membership of the board is representative of all the citizens of South Carolina.

If the Governor, the Superintendent of Education, or either chairman of the Senate and House education committees chooses to designate a person to serve in his stead, the appointment is effective upon certification to the Secretary of State and continues at the pleasure of the one making the designation so long as he holds the specified ex officio position.

Section 59-108-70. (A) All members of the board must be chosen for their interest in, and their ability to contribute to the fulfillment of, the purposes of the board, and all members are charged with the responsibility of serving the best interests of the State. In electing members, the objective must be to obtain the services of the best qualified citizens of the State, taking into consideration the need for representation on the board by the different races, sexes, and political parties.

(B) Whenever any vacancy occurs in the elected membership of the board, the Governor shall fill it by appointment until the next regularly

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scheduled meeting of the body which elected the member whose seat is vacant. The body which elected the member whose seat is vacant shall elect a successor at the next regularly scheduled meeting after the vacancy occurs or as soon after the next regularly scheduled meeting as possible.

(C) Each member of the board shall receive mileage, subsistence, and per diem as is allowed for members of state boards, committees, and commissions.

Section 59-108-80. The board shall meet at stated times established by the board, but not less frequently than six times a year. A quorum for the conduct of business consists of a majority of the members.

Section 59-108-90. The board has the power to appoint from its membership committees which are clothed with any powers the board may confer which are consistent with law. No committee may reverse a decision concerning any policy taken by the board at a regular meeting.

Section 59-108-100. The functions, duties, and responsibilities of the board include:

(1) The board shall plan and develop a coordinated system of higher education in South Carolina. The board shall govern the constituent institutions, subject to the powers, duties, and responsibilities granted in this chapter to the boards of trustees of the institutions, and the board shall maintain close liaison with the constituent institutions, the State Board of Education, the State Board for Technical and Comprehensive Education, and any other committee, board, commission, or agency which serves the purpose of fostering education in South Carolina. The board, in consultation with representatives of the private colleges and universities of this State, shall prepare and revise a long-range plan for a coordinated system of higher education, supplying copies of

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the plan to the Governor, the members of the General Assembly, the members of the State Budget and Control Board, and the constituent institutions.

(2) The board is responsible for the general determination, control, supervision, management, and governance of all affairs of the constituent institutions. For this purpose, the board may adopt and promulgate any policies and regulations it considers wise.

(3) The board shall determine the functions, educational activities, and academic programs of the constituent institutions. The board also shall determine the types of degrees to be awarded by the constituent institutions. The powers granted in this chapter to the board are not restricted by any provision of law assigning specific functions, duties, or responsibilities to designated institutions, and the powers granted in this chapter to the board are superior to the provision. After adequate notice and after giving the board of trustees of a constituent institution an opportunity to be heard, the board is authorized to withdraw approval of an existing program if it appears that the program is unproductive, excessively costly, or unnecessarily duplicative.

(4) The board shall approve the establishment of any new publicly supported four-year institution of higher education.

(5) The board shall set tuition and required fees at the institutions not inconsistent with any action of the General Assembly.

(6) The board shall set enrollment levels at the constituent institutions.

(7) The board shall develop, prepare, and present to the Governor, the General Assembly, and the State Budget and Control Board a single unified recommended budget for all constituent institutions. In preparing this budget, the board shall consult specifically with the constituent institutions.

(8) The board shall render advice and make recommendations concerning education to the

Governor and General Assembly on an annual basis or more frequently if requested by the Governor or the General Assembly.

(9) The board may delegate any of its authority over the affairs of any constituent institution to the board of trustees of that institution or to the president or other chief executive officer of that institution where a delegation appears necessary or prudent to enable the institution to function in a proper and expeditious manner. Any delegation of authority may be rescinded by the board.

Section 59-108-110. All property of whatever kind and all rights and privileges held by the boards of trustees of the constituent institutions as the property, rights, and privileges may exist immediately before the effective date of this chapter are transferred to and assumed by the board. Any property, real or personal or mixed, held immediately before the effective date of this chapter by a board of trustees of a constituent institution for the benefit of that institution must be kept separate and distinct from other properties held by the board, must continue to be held for the benefit of the institution that was previously the beneficiary, and must continue to be held subject to the provisions of the respective instruments, grants, or other means of process by which any property was acquired. Nothing contained in this chapter increases or diminishes the income, other revenue, or specific property which is pledged or otherwise hypothecated for the security or liquidation of any obligation. The board shall assume the obligations without either enlarging or diminishing the rights of the holders of the obligations.

Section 59-108-120. Under this chapter, each board of trustees of a constituent institution has the powers and duties to:

(1) promote the sound development of the

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institution within the functions prescribed for it, helping it to serve the State in a way that will complement the activities of the other constituent institutions and aiding it to perform at a high level of excellence in every area of endeavor;

(2) serve as advisor to the State Board of Regents on matters pertaining to the institution;

(3) appoint a chairman of the board of trustees and other officers necessary to assist the members of the board of trustees in their duties;

(4) appoint, with the advice and consent of the Board of Regents, a college president, treasurer, and secretary and, with the advice and consent of the Board of Regents, to prescribe their duties and terms of office;

(5) make bylaws and regulations for the management of its institution's affairs and operation not inconsistent with policies of the Board of Regents or with any provision of law. Bylaws and regulations must be approved by the Board of Regents before becoming effective;

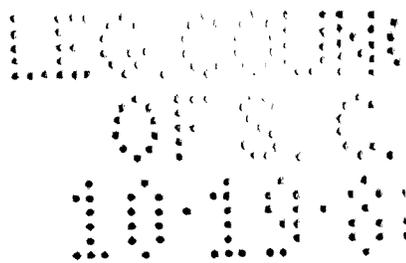
(6) confer degrees upon students and other persons who meet the standards set by the Board of Regents;

(7) perform any other function delegated to it by the Board of Regents, which function may not be inconsistent with law;

(8) perform any function enumerated in the statutes governing the board of trustees' existence, as long as the function has not been granted to the Board of Regents by this chapter.

Section 59-108-130. To the extent that any regulation or other provision of law is inconsistent with this chapter or confers powers on other bodies inconsistent with the powers conferred on the Board of Regents, the provisions of this chapter prevail and apply."

SECTION 2. All persons who, as of the effective date of Chapter 108, Title 59, of the 1976 Code, as contained in Section 1 of this act, are



serving as trustees of constituent institutions, as defined in that chapter, shall continue to serve as provided by the applicable statutes governing their institutions. Their successors must be elected in the manner and at the time prescribed by the statutes governing their institutions.

SECTION 3. Chapters 103, 104, 112, and 113 of Title 59 of the 1976 Code and Sections 5 and 6 of Act 629 of 1988 are repealed.

SECTION 4. This act takes effect upon approval by the Governor.

In the House

Columbia, S. C.

The Committee on

to whom was referred H. No.

S. No.

A Bill, Joint Resolution

respectfully Report that they have duly and carefully considered the same, and recommend that it

do pass

for Committee

