

2017 REGULAR SESSION

**Acts and Joint Resolutions**

of the

GENERAL ASSEMBLY  
OF THE STATE OF SOUTH CAROLINA

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Numbers in parenthesis to left of act numbers (numbers in bold face) refer as follows: number with R before it refers to ratification number, number with S before it refers to bill number in Senate, and number with H before it refers to bill number in House of Representatives.

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Columbia, S.C. 29211

**ACTS**

**AND**

**JOINT RESOLUTIONS**

**OF THE**

**General Assembly**

**OF THE**

**State of South Carolina**

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**HENRY D. MCMASTER, Governor; KEVIN L. BRYANT, Lieutenant Governor and ex officio President of the Senate; HUGH K. LEATHERMAN, SR., President Pro Tempore of the Senate; JAMES H. LUCAS, Speaker of the House of Representatives; THOMAS E. POPE, Speaker Pro Tempore of the House of Representatives; JEFFREY S. GOSSETT, Clerk of the Senate; CHARLES F. REID, Clerk of the House of Representatives.**

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**PART I**

**GENERAL AND PERMANENT LAWS**

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## No. 1

(R5, S263)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 140 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES SHALL ISSUE “CLEMSON UNIVERSITY 2016 FOOTBALL NATIONAL CHAMPIONS” SPECIAL LICENSE PLATES.**

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

**Clemson University 2016 Football National Champions Special License Plates**

SECTION 1. Chapter 3, Title 56 of the 1976 Code is amended by adding:

“Article 140

‘Clemson University 2016 Football National Champions’ Special License Plates

Section 56-3-14010. (A) The Department of Motor Vehicles shall issue ‘Clemson University 2016 Football National Champions’ special license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles as defined in Section 56-3-20, registered in their names.

(B) Clemson University may submit to the department for its approval the emblem, seal, or other symbol it desires to be used for its respective special license plate.

(C) The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of seventy dollars. Any portion of the additional seventy-dollar fee not set aside to defray costs of production and distribution must be distributed to the fund established for Clemson University pursuant to Section 56-3-3710(B) used for the purposes provided in that section.

(D) License number '1' for the 'Clemson University 2016 Football National Champions' license plate is reserved for the Clemson University Head Football Coach."

**Time Effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 7<sup>th</sup> day of March, 2017.

Approved the 10<sup>th</sup> day of March, 2017.

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**No. 2**

(R8, S198)

**AN ACT TO AMEND SECTION 56-1-100, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE PERSONS WHO MUST SIGN AN APPLICATION OF A MINOR FOR A BEGINNER'S PERMIT, INSTRUCTION PERMIT, OR DRIVER'S LICENSE, SO AS TO DELETE THE TERM "INSTRUCTION PERMIT", AND TO REVISE THE LIST OF PERSONS WHO MUST SIGN THE APPLICATION OF AN UNEMANCIPATED MINOR.**

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

**Beginner's permits and driver's licenses for minors**

SECTION 1. Section 56-1-100 of the 1976 Code is amended to read:

"Section 56-1-100. (A) The application of an unemancipated minor for a beginner's permit or driver's license must be signed in the presence of a South Carolina Department of Motor Vehicles employee at the time of application by:

- (1) the father of the minor;
- (2) the mother of the minor;
- (3) the guardian of the minor;
- (4) an individual who has custody, care, and control of the minor;

(5) any person set forth in subsection (C)(3) below with written approval by the Department of Social Services;

(6) any person who has been standing in loco parentis of a minor for a continuous period of not less than sixty days; or

(7) any responsible adult who is willing to assume the obligation imposed under this article and who has written permission, from a person listed in items (1) - (7) above, signed and verified before a person authorized to administer oaths.

(B) The application of an emancipated minor for a beginner's permit or driver's license must be signed in the presence of a South Carolina Department of Motor Vehicles employee at the time of application by a responsible adult who is willing to assume the obligation imposed under this article.

(C) If the Department of Social Services has guardianship or legal custody of a minor, the application may be signed by:

(1) the father of the minor;

(2) the mother of the minor; or

(3) the foster parent, preadoptive parent, or person responsible for the welfare of the child who resides in a childcare facility or residential group care home, upon written approval by the Department of Social Services. The disclosure of information by the Department of Social Services to the Department of Motor Vehicles in order to provide approval for the limited purpose of this code section shall not be a violation of Section 63-7-1990 or any other section of the Children's Code governing the dissemination of confidential information. The foster parent, preadoptive parent, or person responsible for the welfare of a child who resides in a childcare facility or residential group care home must obtain approval from the Department of Social Services prior to the request for an extension of a permit pursuant to Section 56-1-50.

(D) Except as set forth in subsection (C)(3) above, upon the extension of a permit pursuant to Section 56-1-50, authorization by the person who originally signed the application, under subsections (A), (B), or (C) above, is not required."

#### **Time effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 4<sup>th</sup> day of April, 2017.

Approved the 5<sup>th</sup> day of April, 2017.

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**No. 3**

(R9, S218)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 41-1-25 SO AS TO PROVIDE THAT POLITICAL SUBDIVISIONS OF THE STATE MAY NOT ESTABLISH, MANDATE, OR OTHERWISE REQUIRE EMPLOYEE BENEFITS, AND TO DEFINE NECESSARY TERMS.**

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

**Employee benefits, establishment by political subdivisions prohibited, definitions**

SECTION 1. Chapter 1, Title 41 of the 1976 Code is amended by adding:

“Section 41-1-25. (A) For purposes of this section:

(1) ‘Employee benefit’ means anything of value that an employee may receive from an employer in addition to wages. This term includes, but is not limited to, any health benefits, disability benefits, death benefits, group accidental death and dismemberment benefits, paid days off for holidays, paid sick leave, paid vacation leave, paid personal necessity leave, retirement benefits, and profit-sharing benefits.

(2) ‘Political subdivision’ includes, but is not limited to, a municipality, county, school district, special purpose district, or public service district.

(B) A political subdivision of this State may not establish, mandate, or otherwise require an employee benefit.

(C) This section does not limit the authority of political subdivisions to establish employee benefits in employment relationships to which they are a party.”

**Time effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 4<sup>th</sup> day of April, 2017.

Approved the 5<sup>th</sup> day of April, 2017.

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**No. 4**

(R10, S250)

**AN ACT TO AMEND SECTION 12-6-40, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE APPLICATION OF THE INTERNAL REVENUE CODE TO STATE INCOME TAX LAWS, SO AS TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE TO THE YEAR 2016 AND TO PROVIDE THAT IF THE INTERNAL REVENUE CODE SECTIONS ADOPTED BY THIS STATE ARE EXTENDED, THEN THESE SECTIONS ALSO ARE EXTENDED FOR SOUTH CAROLINA INCOME TAX PURPOSES.**

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

**Internal Revenue Code conformity**

SECTION 1. Section 12-6-40(A)(1)(a) and (c) of the 1976 Code, as last amended by Act 160 of 2016, is further amended to read:

“(a) Except as otherwise provided, ‘Internal Revenue Code’ means the Internal Revenue Code of 1986, as amended through December 31, 2016, and includes the effective date provisions contained in it.

(c) If Internal Revenue Code sections adopted by this State which expired or portions thereof expired on December 31, 2016, are extended, but otherwise not amended, by congressional enactment during 2017, these sections or portions thereof also are extended for South Carolina income tax purposes in the same manner that they are extended for federal income tax purposes.”

**Time effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 4<sup>th</sup> day of April, 2017.

Approved the 5<sup>th</sup> day of April, 2017.

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**No. 5**

(R11, S365)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 141 TO CHAPTER 3, TITLE 56 SO AS TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES SHALL ISSUE “2016 BASEBALL NATIONAL CHAMPIONS” SPECIAL LICENSE PLATES.**

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

**2016 Baseball National Champions Special License Plates**

SECTION 1. Chapter 3, Title 56 of the 1976 Code is amended by adding:

“ARTICLE 141

‘2016 Baseball National Champions’ Special License Plates

Section 56-3-14110. (A) The Department of Motor Vehicles shall issue ‘2016 Baseball National Champions’ special license plates to owners of private passenger motor vehicles, as defined in Section 56-3-630, or motorcycles, as defined in Section 56-3-20, registered in their names.

(B) Coastal Carolina University may submit to the department for its approval the emblem, seal, or other symbol it desires to be used for its respective special license plate, provided that the phrase ‘2016 Baseball National Champions’ must be utilized on the plate.

(C) The requirements for production, collection, and distribution of fees for the plate are those set forth in Section 56-3-8100. The biennial



fee for this plate is the regular registration fee set forth in Article 5, Chapter 3 of this title plus an additional fee of seventy dollars. Any portion of the additional seventy-dollar fee not set aside to defray costs of production and distribution must be distributed to the fund established for Coastal Carolina University pursuant to Section 56-3-3710(B), used for the purposes provided in that section.

(D) License number '1' for the '2016 Baseball National Champions' license plate is reserved for the Coastal Carolina University Head Baseball Coach."

### **Time Effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 4<sup>th</sup> day of April, 2017.

Approved the 5<sup>th</sup> day of April, 2017.

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### **No. 6**

(R13, H3358)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 56-1-87 SO AS TO PROVIDE THAT A PERSON MAY HOLD ONLY ONE DEPARTMENT OF MOTOR VEHICLES-ISSUED CREDENTIAL AT A TIME, TO PROVIDE THAT A REAL ID CARD MAY BE A DRIVER'S LICENSE OR IDENTIFICATION CARD, AND TO PROVIDE THAT THE DEPARTMENT MAY ISSUE A COMPLIANT OR NONCOMPLIANT CREDENTIAL TO A PERSON WHO PRESENTS CERTAIN DOCUMENTS TO THE DEPARTMENT; TO AMEND SECTION 56-1-85, RELATING TO THE STATE'S NONPARTICIPATION IN THE FEDERAL REAL ID ACT, SO AS TO PROVIDE THAT THE STATE SHALL MEET ALL THE REQUIREMENTS OF THE FEDERAL REAL ID ACT, AND TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES SHALL NOT PROVIDE DIRECT ACCESS TO ITS FULL DRIVER'S LICENSE DATABASE TO ANY OTHER JURISDICTION; TO AMEND SECTION 56-1-90, RELATING TO IDENTIFICATION**

NECESSARY TO OBTAIN A DRIVER'S LICENSE, SO AS TO REVISE THE CRITERIA THAT MUST BE MET TO PROVE THE EXISTENCE AND VALIDITY OF A PERSON'S SOCIAL SECURITY NUMBER; TO AMEND SECTION 56-1-140, AS AMENDED, RELATING TO THE ISSUANCE OF A DRIVER'S LICENSE, SO AS TO REVISE THE COST AND FREQUENCY OF THE RENEWAL PERIOD FOR A DRIVER'S LICENSE, TO REVISE THE CONTENT OF A DRIVER'S LICENSE, AND TO ELIMINATE THE FEE ASSOCIATED WITH THE PLACEMENT OF A VETERAN DESIGNATION ON A DRIVER'S LICENSE; TO AMEND SECTION 56-1-210, RELATING TO THE EXPIRATION OF A DRIVER'S LICENSE, SO AS TO REVISE THE EXPIRATION DATE OF A LICENSE ISSUED AFTER OCTOBER 1, 2017, AND TO REVISE THE CRITERIA THAT MUST BE MET BY A PERSON WHO SEEKS TO HAVE HIS LICENSE RENEWED; TO AMEND SECTION 56-1-220, AS AMENDED, RELATING TO VISION SCREENINGS REQUIRED FOR RENEWAL OF A DRIVER'S LICENSE, SO AS TO REVISE THE CRITERIA THAT MUST BE MET BY A PERSON WHO SEEKS TO RENEW HIS DRIVER'S LICENSE; AND TO PROVIDE THAT THE DEPARTMENT OF MOTOR VEHICLES IS AUTHORIZED TO EXPEND A CERTAIN AMOUNT IN THE CURRENT FISCAL YEAR FROM ITS CASH BALANCES TO IMPLEMENT THE PROVISIONS OF THIS ACT.

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

**REAL ID card issuance**

SECTION 1. Article 1, Chapter 1, Title 56 of the 1976 Code is amended by adding:

“Section 56-1-87. (A) A person may hold only one Department of Motor Vehicles-issued credential at a time. A REAL ID card may be a driver's license or identification card, but not both.

(B) The department may issue a compliant or noncompliant card. The department may issue a REAL ID compliant credential only to a person who:

(1) presents all supporting documents required for a compliant credential; or

(2) has previously presented proper supporting documents and the department has retained copies of those documents.

(C) The department shall issue a noncompliant credential to a person who opts not to have a REAL ID card, and meets the other requirements necessary to obtain a noncompliant credential.”

### **REAL ID Act**

SECTION 2. Section 56-1-85 of the 1976 Code, as added by Act 70 of 2007, is amended to read:

“Section 56-1-85. It is hereby declared to be the policy of this State:

(1) The State is committed to the continuing effort of enhancing the security, authentication, and issuance procedure standards of its drivers’ licenses and identification cards and of meeting all requirements of the Federal REAL ID Act of 2005 (P.L. 109-13) and accompanying regulations.

(2) The department shall enable qualifying citizens to obtain state drivers’ licenses and identification cards that are in compliance with the REAL ID Act.

(3) The department shall not provide direct access to the department’s full driver’s license database to any other jurisdiction.”

### **Social Security number identification**

SECTION 3. Section 56-1-90 of the 1976 Code is amended to read:

“Section 56-1-90. The Department of Motor Vehicles may require every applicant to submit for identification purposes proof of name, Social Security number, and date and place of birth when applying for a driver’s license. An applicant for a driver’s license, driver’s permit, or special identification card or a renewal thereof may sufficiently prove the existence and validity of his Social Security number, for purposes of Section 14-7-130, by any document considered reliable by the Department of Motor Vehicles. Such a document includes, but is not limited to, an official Social Security card, Social Security check, Social Security form SSA-1099, letter from the Social Security Administration, voter registration card, payroll stub, or Federal W-2 form. The numbers also may be obtained from the Department of Revenue pursuant to Section 12-54-240(B)(7), which permits the Department of Revenue to submit taxpayer Social Security numbers to the Department of Motor Vehicles and to the State Election Commission.

This section does not prevent issuance of a driver's license or identification card to a foreign exchange student participating in a valid foreign exchange program."

#### **Driver's license issuance**

SECTION 4. Section 56-1-140 of the 1976 Code, as last amended by Act 275 of 2016, is further amended to read:

"Section 56-1-140. (A) Upon payment of a fee of twenty-five dollars for a license that is valid for eight years, the department shall issue to every qualified applicant a driver's license as applied for by law. The license must bear on it a distinguishing number assigned to the licensee, the full name, date of birth, residence address, a brief description and laminated colored photograph of the licensee, any marking otherwise required or in compliance with law, and a facsimile of the signature of the licensee. No license is valid until it has been so signed by the licensee. The license authorizes the licensee to operate only those classifications of vehicles as indicated on the license.

(B) An applicant for a new, renewed, or replacement driver's license may apply to the department to obtain a veteran designation on the front of his driver's license by providing a United States Department of Defense discharge certificate, also known as a DD Form 214, Form 4, that shows a characterization of service, or discharge status of 'honorable' or 'general under honorable conditions' and establishes the person's qualifying military service in the United States Armed Forces.

The department may determine the appropriate form of the veteran designation on the driver's license authorized pursuant to this section.

(C) The fees collected pursuant to this section must be credited to the Department of Transportation State Non-Federal Aid Highway Fund."

#### **Driver's license renewal**

SECTION 5. Section 56-1-210 of the 1976 Code is amended to read:

"Section 56-1-210. (A) A license issued or renewed on or after October 1, 2017, expires on the licensee's birth date on the eighth calendar year in which it is issued.

(B) A license is renewable on or before its expiration date upon application and the payment of the required fee.

(C) The department may renew a driver's license of a resident by mail or electronically upon payment of the required fee, if the renewal is a digitized license.

(D) For cause shown, the department may require the submission by the applicant of evidence satisfactory to the department of the applicant's mental and physical fitness to drive and his knowledge of traffic laws and regulations. If the evidence is not satisfactory to the department, the department may require an examination of the applicant as upon an original application. Parallel parking is not required as a part of the driver's test.

(E) If a person's license expires and he is unable to renew it before its expiration date because he is on active military duty outside this State for a continuous period of at least thirty days immediately before the expiration date or because he is the spouse or dependent living for a continuous period of at least thirty days immediately before the expiration date with a person on active military duty outside this State, within sixty days after returning to this State, the person may renew his license in the manner permitted by this section as though the license had not expired. The department may require proof from the person that he qualifies for renewal of his license under this paragraph. Upon request, the person shall provide the department with a copy of his military service record, a document of his branch of military service showing the date of active military duty outside the State, or other evidence presented by the person showing the dates of service."

### **Vision screening**

SECTION 6. Section 56-1-220 of the 1976 Code, as last amended by Act 275 of 2016, is further amended to read:

"Section 56-1-220. (A) The department shall require vision screening for all persons obtaining an initial license. The vision screening may be waived upon the submission of a certificate of vision examination dated within the previous twelve months from an ophthalmologist or optometrist licensed in any state.

(B) The renewal license forms distributed by the department must be designed to contain a certification that the vision of the person screened meets the minimum standards required by the department or have been corrected to meet these requirements if a screening is required. The certification must be executed by the person conducting the screening. The minimum standards of the department shall not require a greater

degree of vision than 20/40 corrected in one eye. Persons using bioptic lenses must adhere to the provisions contained in Section 56-1-222.

(C) A person whose vision is corrected to meet the minimum standards shall have the correction noted on his driver's license by the department.

(D) It is unlawful for a person whose vision requires correction in order to meet the minimum standards of the department to drive a motor vehicle in this State without the use of the correction.

(E) Unless otherwise provided in this section, any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than one hundred dollars or imprisoned for not more than thirty days."

#### **Department of Motor Vehicles REAL ID expenditure**

SECTION 7. The Department of Motor Vehicles is authorized to expend \$1.7 million in the current fiscal year (2016-2017) from its existing cash balances to begin implementing the provisions of this act once it becomes effective.

#### **Time effective**

SECTION 8. This act takes effect upon approval by the Governor.

Ratified the 4<sup>th</sup> day of April, 2017.

Approved the 5<sup>th</sup> day of April, 2017.

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#### **No. 7**

(R14, H3582)

**AN ACT TO AMEND SECTION 7-7-270, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN GEORGETOWN COUNTY, SO AS TO RENAME FOUR PRECINCTS AND REDESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE.**

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

**Georgetown County voting precincts**

SECTION 1. Section 7-7-270 of the 1976 Code, as last amended by Act 35 of 2009, is further amended to read:

“Section 7-7-270. (A) In Georgetown County there are the following voting precincts:

Andrews

Andrews Outside

Bethel

Black River

Brown’s Ferry

Carvers Bay

Choppee

Dream Keepers

Folly Grove

Georgetown No. 1

Georgetown No. 3

Georgetown No. 4

Georgetown No. 5

Kensington

Lambert Town

Murrells Inlet No. 1

Murrells Inlet No. 2

Murrells Inlet No. 3

Murrells Inlet No. 4

Myersville

Pawleys Island No. 1

Pawleys Island No. 2

Pawleys Island No. 3

Pawleys Island No. 4

Pawleys Island No. 5

Pee Dee

Pennyroyal

Plantersville

Pleasant Hill

Potato Bed Ferry

Sampit

Santee

Spring Gulley

## Winyah Bay

(B) The precinct lines defining the above precincts in Georgetown County are as shown on the official map prepared by and on file with the Revenue and Fiscal Affairs Office designated as document P-43-17 and as shown on copies of the official map provided by the office to the Board of Voter Registration and Elections of Georgetown County.

(C) The polling places for the precincts provided in this section must be established by the Board of Voter Registration and Elections of Georgetown County subject to approval by a majority of the Georgetown County Legislative Delegation.”

**Time effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 4<sup>th</sup> day of April, 2017.

Approved the 5<sup>th</sup> day of April, 2017.

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**No. 8**

(R15, H3661)

**AN ACT TO AMEND SECTION 7-7-130, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN CALHOUN COUNTY, SO AS TO DESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE.**

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

**Calhoun County voting precincts**

SECTION 1. Section 7-7-130 of the 1976 Code, as last amended by Act 242 of 1977, is further amended to read:

“Section 7-7-130. (A) In Calhoun County there are the following voting precincts:



Bethel  
Cameron  
Center Hill  
Creston  
Dixie  
Fall Branch  
Fort Motte  
Lone Star  
Midway  
Murph Mill  
Sandy Run  
St. Matthews

(B) The precinct lines defining the above precincts are as shown on maps filed with the clerk of court of the county and also on file with the State Election Commission as provided and maintained by the Revenue and Fiscal Affairs Office and designated as document P-17-17.”

**Time effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 4<sup>th</sup> day of April, 2017.

Approved the 5<sup>th</sup> day of April, 2017.

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**No. 9**

(R16, H3803)

**AN ACT TO AMEND SECTION 7-7-220, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DESIGNATION OF VOTING PRECINCTS IN DILLON COUNTY, SO AS TO DESIGNATE THE MAP NUMBER ON WHICH THE NAMES OF THESE PRECINCTS MAY BE FOUND AND MAINTAINED BY THE REVENUE AND FISCAL AFFAIRS OFFICE.**

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

**Designation of map number delineating Dillon County voting precincts**

SECTION 1. Section 7-7-220(B) of the 1976 Code, as last amended by Act 180 of 2002, is further amended to read:

“(B) The precinct lines defining these precincts are as shown on maps filed with the clerk of court of the county and also on file with the State Election Commission as provided and maintained by the Revenue and Fiscal Affairs Office and designated as document P-33-17.”

**Time effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 4<sup>th</sup> day of April, 2017.

Approved the 5<sup>th</sup> day of April, 2017.

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**No. 10**

(R18, S354)

**AN ACT TO AMEND SECTION 44-7-130, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR THE STATE CERTIFICATION OF NEED AND HEALTH FACILITY LICENSURE ACT, SO AS TO DEFINE “CRISIS STABILIZATION UNIT FACILITY”; TO AMEND SECTION 44-7-170, AS AMENDED, RELATING TO THE REQUIREMENT FOR A CERTIFICATE OF NEED REVIEW, SO AS TO EXEMPT CRISIS STABILIZATION UNIT FACILITIES; AND TO AMEND SECTION 44-7-260, AS AMENDED, RELATING TO REQUIREMENTS FOR LICENSURE FOR HEALTH FACILITIES, SO AS TO REQUIRE CRISIS STABILIZATION UNIT FACILITIES TO OBTAIN A LICENSE FROM THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL.**

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

**Certificate of Need and Health Facility Licensure Act definitions**

SECTION 1. Section 44-7-130 of the 1976 Code, as last amended by Act 173 of 2014, is further amended by adding:

“(26) ‘Crisis stabilization unit facility’ means a facility, other than a health care facility, operated by the Department of Mental Health or operated in partnership with the Department of Mental Health that provides a short-term residential program, offering psychiatric stabilization services and brief, intensive crisis services to individuals eighteen and older, twenty-four hours a day, seven days a week.”

**Exemptions from Certificate of Need review**

SECTION 2. Section 44-7-170(A) of the 1976 Code, as last amended by Act 278 of 2010, is further amended to read:

“(A) The following are exempt from Certificate of Need review:

(1) the acquisition by a person of medical equipment to be used solely for research, the offering of an institutional health service by a person solely for research, or the obligation of a capital expenditure by a person to be made solely for research if it does not:

(a) affect the charges imposed by the person for the provision of medical or other patient care services other than the services that are included in the research;

(b) change the bed capacity of a health care facility; or

(c) substantially change the medical or other patient care services provided by the person.

A written description of the proposed research project must be submitted to the department in order for the department to determine if these conditions are met. A Certificate of Need is required in order to continue use of the equipment or service after the equipment or service is no longer being used solely for research;

(2) the offices of a licensed private practitioner whether for individual or group practice except as provided for in Section 44-7-160(1) and (6);

(3) the replacement of like equipment for which a Certificate of Need has been issued which does not constitute a material change in service or a new service;

(4) crisis stabilization unit facilities. Notwithstanding subsection (C), crisis stabilization unit facilities will not require a written exemption from the department.”

**Licensure requirements for health facilities**

SECTION 3. Section 44-7-260(A) of the 1976 Code, as last amended by Act 47 of 2011, is further amended to read:

“(A)If they provide care for two or more unrelated persons, the following facilities or services may not be established, operated, or maintained in this State without first obtaining a license in the manner provided by this article and regulations promulgated by the department:

- (1) hospitals, including general and specialized hospitals;
- (2) nursing homes;
- (3) residential treatment facilities for children and adolescents;
- (4) ambulatory surgical facilities;
- (5) crisis stabilization unit facilities;
- (6) community residential care facilities;
- (7) facilities for chemically dependent or addicted persons;
- (8) end-stage renal dialysis units;
- (9) day care facilities for adults;
- (10) any other facility operating for the diagnosis, treatment, or care of persons suffering from illness, injury, or other infirmity and for which the department has adopted standards of operation by regulation;
- (11) intermediate care facilities for persons with intellectual disability;
- (12) freestanding or mobile technology;
- (13) facilities wherein abortions are performed;
- (14) birthing centers.”

**Time effective**

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

Ratified the 19<sup>th</sup> day of April, 2017.

Approved the 24<sup>th</sup> day of April, 2017.

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## No. 11

(R20, H3438)

AN ACT TO AMEND SECTION 39-24-20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS IN THE DRUG PRODUCT SELECTION ACT, SO AS TO CHANGE THE DEFINITION OF "SUBSTITUTE" TO INCLUDE INTERCHANGEABLE BIOLOGICAL PRODUCTS; TO AMEND SECTION 39-24-30, RELATING TO THE SUBSTITUTION OF EQUIVALENT DRUGS, SO AS TO ALLOW A PHARMACIST TO SUBSTITUTE AN INTERCHANGEABLE BIOLOGICAL PRODUCT FOR A SPECIFIC BIOLOGICAL PRODUCT; TO AMEND SECTION 39-24-40, AS AMENDED, RELATING TO THE SUBSTITUTION OF PRESCRIPTIONS BY PHARMACISTS, SO AS TO ALLOW PHARMACISTS TO SUBSTITUTE INTERCHANGEABLE BIOLOGICAL PRODUCTS WHEN APPROPRIATE; TO AMEND SECTION 40-43-30, RELATING TO DEFINITIONS IN THE PHARMACY PRACTICE ACT, SO AS TO ADD DEFINITIONS FOR "BIOLOGICAL PRODUCT" AND "INTERCHANGEABLE BIOLOGICAL PRODUCT"; AND TO AMEND SECTION 40-43-86, RELATING IN PART TO LABEL REQUIREMENTS FOR PRESCRIPTIONS, SO AS TO ADDRESS LABELING, PRESCRIBER NOTIFICATION, AND OTHER REQUIREMENTS APPLICABLE TO INTERCHANGEABLE BIOLOGICAL PRODUCTS.

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

**Changing definition of substitute in Drug Product Selection Act**

SECTION 1. Section 39-24-20 of the 1976 Code is amended to read:

“Section 39-24-20. As used in this chapter:

- (1) ‘Brand name’ means the proprietary or trade name placed upon a drug, its container, label or wrapping at the time of packaging;
- (2) ‘Generic name’ means the United States Adopted Name (USAN) or the official title of a drug published in the latest edition of a nationally recognized pharmacopoeia or formulary;
- (3) ‘Substitute’ means to dispense, with the practitioner’s authorization, a ‘therapeutically equivalent’ generic drug product of

identical drug salt or an interchangeable biological product in place of the drug or biological product ordered or prescribed;

(4) ‘Therapeutically equivalent’ means the same efficacy and toxicity when administered to an individual in the same dosage form; and

(5) ‘Practitioner’ means a physician, osteopath, dentist, podiatrist, veterinarian, or any other person authorized to prescribe drugs under the laws of this State.”

### **Authority of a pharmacist to substitute interchangeable biological products**

SECTION 2. Section 39-24-30 of the 1976 Code is amended to read:

“Section 39-24-30. (A) As provided in Section 39-24-40, upon receiving a prescription for a brand name product, a registered pharmacist may substitute a drug product of the same dosage form and strength which, in his professional judgment, is a therapeutically equivalent drug product.

(B) As provided in Section 39-24-40, upon receiving a prescription for a specific biological product, a registered pharmacist may substitute an interchangeable biological product.”

### **Prescription requirements to substitute interchangeable biological products**

SECTION 3. Section 39-24-40 of the 1976 Code, as last amended by Act 314 of 2002, is further amended to read:

“Section 39-24-40. (A) An oral or written drug prescription must provide an authorization from the practitioner as to whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted.

(B) A written prescription must have two signature lines at opposite ends on the bottom of the form. Under the line at the left side must be clearly printed the words ‘DISPENSE AS WRITTEN’. Under the line at the right side shall be clearly printed the words ‘SUBSTITUTION PERMITTED’, unless the prescription is to be paid for with Medicaid funds. The practitioner shall communicate the instructions to the pharmacist by signing on the appropriate line. A written prescription is not valid without the signature of the practitioner on one of these lines.

(C) An oral prescription from the practitioner must instruct the pharmacist as to whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted, unless the prescription is to be paid for with Medicaid funds. The pharmacist shall note the instructions on the file copy of the prescription and retain the prescription form for the period as prescribed by law.

(D) The pharmacist shall note the brand name or the manufacturer of the substituted drug or biological product dispensed on the file copy of a written or oral prescription or record this information electronically, or both.

(E) Substitution may not occur unless the pharmacist advises the patient that the practitioner has authorized substitution and the patient consents.

(F) If a pharmacist substitutes a generic drug for a name brand prescribed drug when dispensing a prescribed medication, the brand name and the name of the generic drug and its manufacturer, with an explanation of 'generic for' or similar language to indicate substitution has occurred, must appear on the prescription label and be affixed to the container or an auxiliary label, unless the prescribing practitioner indicated that the name of the drug may not appear upon the prescription label.

(G) If a pharmacist substitutes an interchangeable biological product for a specific biological product prescribed when dispensing a prescribed medication, the brand name and the name of the interchangeable biological product and its manufacturer, with an explanation of 'interchangeable with' or similar language, to indicate substitution has occurred, must appear on the prescription label and be affixed to the container or an auxiliary label unless the prescribing practitioner indicated that the name of the biological product may not appear on the prescription label."

#### **Adding Pharmacy Practice Act definitions**

SECTION 4. Section 40-43-30 of the 1976 Code is amended to read:

"Section 40-43-30. For purposes of this chapter:

(1) 'Administer' means the direct application of a drug or device pursuant to a lawful order of a practitioner to the body of a patient by injection, inhalation, ingestion, topical application, or any other means.

(2) 'Biological product' has the same meaning as defined in 42 U.S.C. Section 262.

(3) 'Biological safety cabinet' means a containment unit suitable for the preparation of low-to-moderate risk agents where there is a need for protection of the product, personnel, and environment, according to National Sanitation Foundation Standard 49.

(4) 'Board' or 'Board of Pharmacy' means the State Board of Pharmacy.

(5) 'Brand name' means the proprietary or trade name placed upon a drug, its container, label, or wrapping at the time of packaging.

(6) 'Chart order' means a lawful order from a practitioner for a drug or device for patients of a hospital or extended care facility, or such an order prepared by another person and signed by a practitioner either immediately or at another time, issued for a legitimate medical purpose within the practitioner's course of legitimate practice and including orders derived on behalf of a practitioner from a practitioner approved drug therapy management.

(7) 'Class 100 environment' means an atmospheric environment which contains less than one hundred particles 0.5 microns in diameter per cubic foot of air.

(8) 'Compounding' means the preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or the preparation, mixing, assembling, packaging, or labeling of a drug or device as the result of a practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice, or for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing. Compounding also includes the preparation of drugs or devices in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns. The term compounding does not include mixing, reconstituting, or other such acts that are performed in accordance with directions contained in approved labeling provided by the product's manufacturer and other manufacturer directions consistent with that labeling.

(9) 'Confidential information' means information maintained in a patient's records or which is communicated to a patient as part of patient counseling, which is privileged and may be released only to the patient, to those practitioners and pharmacists where, in the pharmacist's professional judgment, release is necessary to protect the patient's health and well being, and to other persons or governmental agencies authorized by law to receive such confidential information.

(10) 'Cytotoxic agent' means a drug that has the capability of killing living cells.



(11) 'Deliver' or 'delivery' means the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for consideration.

(12) 'Designated agent' means a person employed by an authorized practitioner to transmit, either orally or electronically, a prescription drug order on behalf of the authorized practitioner to the pharmacist. The authorized practitioner accepts the responsibility for the correct transmission of the prescription drug order.

(13) 'Designated pharmacist' means an individual currently licensed by the Board of Pharmacy in this State who certifies internship training.

(14) 'Device' means an instrument, apparatus, implement, machine, contrivance, implant, or other similar or related article, including any component part or accessory, which is required under federal law to bear the label: 'Caution: Federal law restricts this device for sale by or on the order of a \_\_\_\_\_', the blank to be filled with the word physician, dentist, veterinarian, or with the descriptive designation of any other practitioner licensed by the law of the State in which he practices to use or order the use of the device; or 'Federal law prohibits dispensing without prescription'; or any products deemed to be a public health threat after notice and public hearing as designated by the board.

(15) 'Dispense' means the transfer of possession of one or more doses of a drug or device by a licensed pharmacist or person permitted by law, to the ultimate consumer or his agent pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. As an element of dispensing, the dispenser shall, before the actual physical transfer, interpret and assess the prescription order for potential adverse reactions or side effects, interactions, allergies, dosage, and regimen the dispenser considers appropriate in the exercise of his professional judgment, and the dispenser shall determine that the drug or device called for by the prescription is ready for dispensing. The dispenser shall also provide counseling on proper drug usage, either orally or in writing, as provided in this chapter. The actual sales transaction and delivery of a drug or device is not considered dispensing and the administration is not considered dispensing.

(16) 'Distribute' means the delivery of a drug or device other than by administering or dispensing.

(17) 'Drug' or 'medicine' means:

(a) articles recognized as drugs in an official compendium, or supplement to a compendium, including, but not limited to, USP/NF designated from time to time by the board for use in the diagnosis, cure,

mitigation, treatment, or prevention of disease in humans or other animals;

(b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals;

(c) articles, other than food, or nonprescription vitamins intended to affect the structure or a function of the human body or other animals; and

(d) articles intended for use as a component of any articles specified in item (a), (b), or (c) of this subsection.

(18) 'Drug regimen review' includes, but is not limited to, the following activities:

(a) evaluation of prescription drug orders and pharmacy patient records for:

- (i) known allergies;
- (ii) rational therapy-contraindications;
- (iii) reasonable dose and route of administration; and
- (iv) reasonable directions for use.

(b) evaluation of prescription drug orders and pharmacy patient records for duplication of therapy.

(c) evaluation of prescription drug orders and pharmacy patient records for interactions:

- (i) drug-drug;
- (ii) drug-food;
- (iii) drug-disease, if available; and
- (iv) adverse drug reactions.

(d) evaluation of prescription drug orders and pharmacy patient records for proper utilization, including over-utilization or under-utilization, and optimum therapeutic outcomes.

(19) 'Drug therapy management' is that practice of pharmacy which involves the expertise of the pharmacist in a collaborative effort with the practitioner and other health care providers to ensure the highest quality health care services for patients.

(20) 'Enteral' means within or by way of the intestine.

(21) 'Equivalent drug product' means a drug product which has the same established name and active ingredients to meet the same compendia or other applicable standards, but which may differ in characteristics such as shape, scoring configuration, packaging, excipient (including colors, flavors, preservatives), and expiration time. Pharmacists may utilize as a basis for the determination of generic equivalency Approved Drug Products with Therapeutic Equivalence Evaluations and current supplements published by the federal Food and

Drug Administration, within the limitations stipulated in that publication.

(22) 'Extern' means an individual currently enrolled in an approved college or school of pharmacy who is on required rotations for obtaining a degree in pharmacy.

(23) 'Generic names' mean the official compendia names or United States Adopted Names (USAN).

(24) 'Health care provider' includes a pharmacist who provides health care services within the pharmacist's scope of practice pursuant to state law and regulation.

(25) 'Institutional facility' means an organization whose primary purpose is to provide a physical environment for patients to obtain health care services and shall not include those places where physicians, dentists, veterinarians, or other practitioners, who are duly licensed, engage in private practice.

(26) 'Institutional pharmacy' means the physical portion of an institutional facility that is engaged in the compounding, dispensing, and distribution of drugs, devices, and other materials, hereinafter referred to as 'drugs', used in the diagnosis and treatment of injury, illness, and disease and which is permitted by the State Board of Pharmacy.

(27) 'Institutional consultant pharmacist' means a pharmacist licensed in this State who acts as a consultant for institutional facilities.

(28) 'Interchangeable biological product' means a biological product that the federal Food and Drug Administration has:

(a) licensed and determined to meet the standards of 'interchangeability' pursuant to 42 U.S.C. Section 262(k)(4); or

(b) determined to be therapeutically equivalent by the federal Food and Drug Administration.

(29) 'Intern' means an individual who is currently registered by certificate in this State to engage in the practice of pharmacy while under the personal supervision of a pharmacist and is satisfactorily progressing toward meeting the requirements for licensure as a pharmacist.

(30) 'Labeling' means the process of preparing and affixing a label which includes all information required by federal and state law to a drug container exclusive of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device.

(31) 'Manufacturing of products' means the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, or from bulk chemicals, and includes any packaging or repackaging of the

substances or labeling or relabeling of its container, if these actions are followed by the promotion and marketing of the drugs or devices for resale to pharmacies, practitioners, or other persons.

(32) 'Manufacturer' means a person engaged in the manufacture of prescription drugs or devices.

(33) 'Medical order' means a lawful order of a practitioner which may or may not include a prescription drug order.

(34) 'Nonprescription drug' means a drug which may be sold without a prescription and which is labeled for use by the consumer in accordance with the requirements of the laws of this State and the federal government.

(35) 'Nonresident pharmacy' means a pharmacy located outside this State.

(36) 'Parenteral' means a sterile preparation of drugs for injection through one or more layers of the skin.

(37) 'Patient counseling' means the oral or written communication by the pharmacist to a patient or caregiver providing information on the proper use of drugs and devices.

(38) 'Permit consultant pharmacist' means a pharmacist licensed in this State who acts as a consultant for a permit holder other than a pharmacy or institution.

(39) 'Person' means an individual, sole-proprietorship, corporation, partnership, association, or any other legal entity including government.

(40) 'Pharmacy care' is the direct provision of drug therapy and other pharmacy patient care services through which pharmacists, in cooperation with the patient and other health care providers, design, implement, monitor, and manage therapeutic plans for the purpose of improving a patient's quality of life. Objectives include cure of disease, elimination or reduction of a patient's symptomatology, arresting or slowing a disease process, or prevention of a disease or symptomatology. The process includes three primary functions:

- (a) identifying potential and actual drug-related problems;
- (b) resolving actual drug-related problems; and
- (c) preventing potential drug-related problems.

(41) 'Pharmacist' means an individual health care provider licensed by this State to engage in the practice of pharmacy. A pharmacist is a learned professional authorized to provide patient care services within the scope of his knowledge and skills.

(42) 'Pharmacist-in-charge' means a pharmacist currently licensed in this State who accepts responsibility for the operation of a pharmacy in conformance with all laws pertinent to the practice of pharmacy and the

distribution of drugs and who is in full and actual charge of the pharmacy and personnel.

(43) 'Pharmacy' means a location for which a pharmacy permit is required and in which prescription drugs and devices are maintained, compounded, and dispensed for patients by a pharmacist. This definition includes a location where pharmacy-related services are provided by a pharmacist.

(44) 'Pharmacy technician' means an individual other than an intern or extern, who assists in preparing, compounding, and dispensing medicines under the personal supervision of a licensed pharmacist and who is required to register as a pharmacy technician.

(45) 'Poison' means:

(a) a drug, chemical, substance, or preparation which, according to standard works on medicine, materia medica, or toxicology, is liable to be destructive to adult human life in doses of sixty grains or less; or

(b) a substance recognized by standard authorities on medicine, materia medica, or toxicology as poisonous; or

(c) any other item enumerated in this chapter; or

(d) a drug, chemical, substance, or preparation which is labeled 'Poison'.

(46) 'Practice of pharmacy' means the interpretation, evaluation, and dispensing of prescription drug orders in the patient's best interest; participation in drug and device selection, drug administration, prospective drug reviews, and drug or drug-related research; provision of patient counseling and the provision of those acts or services necessary to provide pharmacy care and drug therapy management; and responsibility for compounding and labeling of drugs and devices, (except labeling by a manufacturer, repackager, or distributor or nonprescription drugs and commercially packaged legend drugs and devices) proper and safe storage of drugs and devices and maintenance of proper records for them; or the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, education, management, and control of pharmacy.

(47) 'Practitioner' means a physician, dentist, optometrist, podiatrist, veterinarian, or other health care provider authorized by law to diagnose and prescribe drugs and devices.

(48) 'Prescription drug' or 'legend drug' means:

(a) a drug which, under federal law, is required, prior to being dispensed or delivered, to be labeled with any of the following statements:

(i) 'Caution: Federal law prohibits dispensing without prescription';

(ii) 'Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian';

(iii) 'Rx only'; or

(b) a drug which is required by any applicable federal or state law to be dispensed pursuant only to a prescription drug order or is restricted to use by practitioners only;

(c) any drug products considered to be a public health threat, after notice and public hearing as designated by the board; or

(d) any prescribed compounded prescription is a prescription drug within the meaning of this act.

(49) 'Prescription drug order' means a lawful order from a practitioner for a drug or device for a specific patient, issued for a legitimate medical purpose within the prescriber's course of legitimate practice and including orders derived from collaborative pharmacy practice.

(50) 'Prospective drug use review' means a review of the patient's drug therapy and prescription drug order before dispensing the drug as part of a drug regimen review.

(51) 'Significant adverse drug reaction' means a drug-related incident that may result in serious harm, injury, or death to the patient.

(52) 'Sterile pharmaceutical' means a dosage form devoid of viable microorganisms.

(53) 'Therapeutically equivalent' means a drug product with the same efficacy and toxicity when administered to an individual as the originally prescribed drug as provided for in Section 39-24-40.

(54) 'Wholesale distributor' means a person engaged in wholesale distribution of prescription drugs or devices including, but not limited to, manufacturers; repackagers; own-label distributors; private-label distributors; jobbers; brokers; warehouses including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions. 'Wholesale distributor' does not include:

(a) intracompany sales, being defined as a transaction or transfer between a division, subsidiary, parent, or affiliated or related company under the common ownership and control of a corporate entity;

(b) the purchase or other acquisition by a hospital or other health care entity that is a member of a group-purchasing organization of a drug for its own use from the group-purchasing organization or from other hospitals or health care entities that are members of such organizations;

(c) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in

section 501(c)(3) of the Internal Revenue Code of 1986 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(d) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control. For purposes of this section, ‘common control’ means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, by contract, or otherwise;

(e) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons. For purposes of this section, ‘emergency medical reasons’ includes the transfer of legend drugs by a licensed pharmacy to another licensed pharmacy or a practitioner licensed to possess prescription drugs to alleviate a temporary shortage, except that the gross dollar value of the transfers may not exceed five percent of the total legend drug sales revenue of either the transferor or the transferee pharmacy during a consecutive twelve-month period;

(f) the sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription; or

(g) the sale, purchase, or trade of blood and blood components intended for transfusion.

(55) ‘Revocation’ means the cancellation or withdrawal of a license, permit, or other authorization issued by the board either permanently or for a period specified by the board before the person shall be eligible to apply anew. A person whose license, permit, or other authorization has been permanently revoked by the board shall never again be eligible for a license or permit of any kind from the board.

(56) ‘Certified pharmacy technician’ means an individual who is a registered pharmacy technician and who has completed the requirements provided for in Section 40-43-82(B).”

### **Labeling and other pharmacy requirements for interchangeable biological products**

SECTION 5. Section 40-43-86(B)(4)(b) and (H) of the 1976 Code is amended to read:

“(b) The pharmacist-in-charge shall develop and implement written policies and procedures to specify the duties to be performed by pharmacy technicians. The duties and responsibilities of these personnel shall be consistent with their training and experience. These policies and procedures shall, at a minimum, specify that pharmacy technicians are

to be personally supervised by a licensed pharmacist who has the ability to control and who is responsible for the activities of pharmacy technicians and that pharmacy technicians are not assigned duties that may be performed only by a licensed pharmacist. One pharmacist may not supervise more than three pharmacy technicians at a time; through June 30, 2006, at least one of these three technicians must be state-certified, and after June 30, 2006, at least two of these three technicians must be state-certified. If a pharmacist supervises only one or two pharmacy technicians, these technicians are not required to be state-certified. Pharmacy technicians do not include personnel in the prescription area performing only clerical functions, including data entry up to the point of dispensing, as defined in Section 40-43-30(15).

(H)(1) Upon receiving a prescription for a brand name drug or for a specific biological product, a registered pharmacist may in his professional judgment substitute an equivalent drug or interchangeable biological product as provided in this subsection.

(2) Every oral or written drug prescription shall provide an authorization from the practitioner as to whether or not an equivalent drug or interchangeable biological product may be substituted.

(3) A written prescription shall have two signature lines at opposite ends on the bottom of the form. Under the line at the left side shall be clearly printed the words 'DISPENSE AS WRITTEN'. Under the line at the right side shall be clearly printed the words 'SUBSTITUTION PERMITTED'. The practitioner shall communicate the instructions to the pharmacist by signing on the appropriate line. No written prescription is valid without the signature of the practitioner on one of these lines.

(4) An oral prescription from the practitioner shall instruct the pharmacist as to whether or not an equivalent drug product or interchangeable biological product may be substituted. The pharmacist shall note the instructions on the file copy of the prescription and retain the prescription form for the period as prescribed by law.

(5) The pharmacist shall note the brand name or the manufacturer of the substituted drug or brand or proper name and manufacturer of the biological product dispensed on the file copy of a written or oral prescription or record this information electronically, or both. If a pharmacist substitutes a generic drug or interchangeable biological product for a name brand prescribed drug or specific biological product prescribed:

(a) In the case of a drug product described, when dispensing a prescribed medication, the brand name and the generic name of the drug



and its manufacturer or brand name, if any, with an explanation of 'generic for' or similar language in the case of a drug dispensed, to indicate substitution has occurred, must appear on the prescription label and be affixed to the container or an auxiliary label, unless in the case of a drug product prescribed, the prescribing practitioner indicated that the name of the drug may not appear upon the prescription label.

(b) In the case of a biological product described, when dispensing a prescribed medication, the brand name, if any, and the proper name of the biological product and its manufacturer, with an explanation of 'interchangeable with' or similar language, in the case of a biological product dispensed, to indicate substitution has occurred, must appear on the prescription label and be affixed to the container or an auxiliary label, unless in the case of a drug product prescribed, the prescribing practitioner indicated that the name of the drug may not appear upon the prescription label.

(6) Substitution may not occur unless the pharmacist advises the patient or the patient's agent that the practitioner has authorized substitution and the patient, or patient's agent, consents. A Medicaid recipient whose prescription is reimbursed by the South Carolina Medicaid Program is deemed to have consented to the substitution of a less costly equivalent generic drug product or interchangeable biological product.

(7) Within five business days following the dispensing of a biological product, the dispensing pharmacist or the pharmacist's designee shall make an entry of the specific biological product provided to the patient, including the name of the biological product and the manufacturer. The communication must be conveyed by making an entry that is electronically accessible to the prescriber through: (i) an interoperable electronic medical records system; (ii) an electronic prescribing technology; (iii) a pharmacy benefit management system; or (iv) a pharmacy record. Entry into an electronic records system as described in this section is presumed to provide notice to the prescriber. Otherwise, the pharmacist shall communicate the biological product dispensed to the prescriber using facsimile, telephone, electronic transmission, or other prevailing means, provided that communication is not required when:

(a) there is no federal Food and Drug Administration approved interchangeable biological product for the product prescribed; or

(b) a refill prescription is not changed from the product dispensed on the prior filling of the prescription; or

(c) a biological product is dispensed for inpatient hospital services or is a hospital-administered biological product for outpatients."

**Time effective**

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

Ratified the 19<sup>th</sup> day of April, 2017.

Approved the 24<sup>th</sup> day of April, 2017.

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**No. 12**

(R21, H3517)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-9-750 SO AS TO PROVIDE THAT THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES MAY ISSUE SPECIAL AUTHORIZATION FOR HUNTING AND FISHING TO ANY PERSON WHO IS NOT MORE THAN TWENTY-ONE YEARS OLD WHO HAS BEEN DIAGNOSED WITH A TERMINAL OR LIFE THREATENING ILLNESS OR INJURY WHO IS SPONSORED BY CERTAIN NONPROFIT CHARITABLE ORGANIZATIONS, TO PROVIDE THAT LICENSE, TAG, AND FEE REQUIREMENTS FOR HUNTING AND FISHING ARE WAIVED, AND TO ALLOW THE DIRECTOR TO DETERMINE THE PERIOD OF TIME IN WHICH THE SPECIAL AUTHORIZATION IS VALID.**

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

**Special authorization for hunting and fishing**

SECTION 1. Article 7, Chapter 9, Title 50 of the 1976 Code is amended by adding:

“Section 50-9-750. (A) The Director of the Department of Natural Resources may issue special authorization for hunting and fishing to any person not more than twenty-one years of age who has been diagnosed with a terminal or life threatening illness or injury. All licenses, tags, and fees specified in this chapter are waived for a person issued special

authorization pursuant to this section. The director may impose any terms and conditions he deems necessary to implement the special authorization. This may include allowing members of family, chaperones and others to assist with the hunt.

(B) The director may prepare an application to be used by persons requesting special authorization and may require signed documentation from a licensed physician.

(C) The person seeking special authorization must be sponsored by a nonprofit charitable organization that has within its mission to provide opportunities and experiences to persons with life threatening illnesses or injuries.

(D) The special authorization is valid for a time period designated by the director.”

**Time effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 19<sup>th</sup> day of April, 2017.

Approved the 24<sup>th</sup> day of April, 2017.

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**No. 13**

(R22, H3726)

**AN ACT TO AMEND SECTION 9-1-1085, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA RETIREMENT SYSTEM EMPLOYER AND EMPLOYEE CONTRIBUTION RATES, SO AS TO CHANGE FUTURE EMPLOYER AND EMPLOYEE CONTRIBUTION RATES AND TO REQUIRE THAT THE UNFUNDED LIABILITIES OF THE SYSTEM MUST BE ON A CERTAIN AMORTIZATION SCHEDULE; TO AMEND SECTION 9-11-225, RELATING TO THE POLICE OFFICERS RETIREMENT SYSTEM EMPLOYER AND EMPLOYEE CONTRIBUTION RATES, SO AS TO CHANGE FUTURE EMPLOYER AND EMPLOYEE CONTRIBUTION RATES AND TO REQUIRE THAT THE UNFUNDED LIABILITIES OF THE SYSTEM MUST BE ON A CERTAIN AMORTIZATION SCHEDULE; TO AMEND**

**SECTION 9-16-335, RELATING TO THE ASSUMED RATE OF RETURN, SO AS TO CHANGE THE ASSUMED RATE OF RETURN TO SEVEN AND ONE QUARTER PERCENT AND TO PROVIDE THAT THE ASSUMED RATE OF RETURN EXPIRES EVERY FOUR YEARS; TO AMEND SECTION 9-4-10, RELATING TO THE TERM OF MEMBERS OF THE BOARD OF DIRECTORS OF THE SOUTH CAROLINA PUBLIC EMPLOYEE BENEFIT AUTHORITY (PEBA), SO AS TO CHANGE THE TERM FROM TWO TO FOUR YEARS AND TO REQUIRE THE BOARD TO EMPLOY AN EXECUTIVE DIRECTOR; TO AMEND SECTION 9-4-40, RELATING TO THE AUDIT OF PEBA, SO AS TO REQUIRE PEBA TO BE AUDITED EVERY FOUR YEARS; TO AMEND SECTION 9-1-240, RELATING TO THE APPOINTMENT AND DUTIES OF THE ACTUARY, SO AS TO PROVIDE THAT THE STATE FISCAL ACCOUNTABILITY AUTHORITY SHALL APPROVE THE ACTUARY AND TO PROVIDE THAT THE RETIREMENT SYSTEM INVESTMENT COMMISSION IS A THIRD-PARTY BENEFICIARY OF THE CONTRACT WITH THE ACTUARY; TO AMEND SECTION 9-16-10, AS AMENDED, RELATING TO RETIREMENT SYSTEM FUNDS' "FIDUCIARY" DEFINITION, SO AS TO ADD THE COMMISSION'S "CHIEF EXECUTIVE OFFICER" TO THE DEFINITION; TO AMEND SECTION 9-16-30, AS AMENDED, RELATING TO THE DELEGATION OF FUNCTIONS BY THE COMMISSION, SO AS TO PROVIDE THAT THE COMMISSION SHALL CAST CERTAIN SHAREHOLDER PROXY VOTES; TO AMEND SECTION 9-16-90, AS AMENDED, RELATING TO CERTAIN INVESTMENT REPORTS, SO AS TO PROVIDE THAT CERTAIN REPORTS MUST CONTAIN A SCHEDULE OF NET MANAGER FEES AND EXPENSES; TO AMEND SECTION 9-16-315, AS AMENDED, RELATING TO THE RETIREMENT SYSTEM INVESTMENT COMMISSION, SO AS TO CHANGE CERTAIN MEMBERS OF THE COMMISSION, TO ADD QUALIFICATIONS, AND TO REQUIRE THE COMMISSION TO EMPLOY A CHIEF EXECUTIVE OFFICER; TO AMEND SECTION 9-16-330, AS AMENDED, RELATING TO CERTAIN STATEMENTS OF ACTUARIAL ASSUMPTIONS AND INVESTMENT OBJECTIVES, SO AS TO ALLOW FOR CERTAIN DELEGATIONS TO THE CHIEF INVESTMENT OFFICER, AND TO REQUIRE THE INVESTMENT PLAN TO INCLUDE THE FINAL AUTHORITY TO INVEST BE MADE BY**

THE COMMISSION; TO AMEND SECTION 9-16-380, RELATING TO THE AUDIT OF THE RETIREMENT SYSTEM INVESTMENT COMMISSION, SO AS TO PROVIDE THAT THE RETIREMENT SYSTEM INVESTMENT COMMISSION BE AUDITED EVERY FOUR YEARS; BY ADDING SECTION 9-16-100 SO AS TO PLACE CERTAIN RESTRICTIONS ON LOBBYISTS AND TO PROHIBIT THE COMMISSION FROM MAKING CERTAIN INVESTMENTS; TO AMEND SECTION 9-1-1310, AS AMENDED, RELATING TO THE TRUSTEES OF THE RETIREMENT SYSTEM, SO AS TO CHANGE A TRUSTEE FROM THE STATE FISCAL ACCOUNTABILITY AUTHORITY TO THE RETIREMENT SYSTEM INVESTMENT COMMISSION; TO AMEND SECTION 9-1-1320, RELATING TO THE CUSTODY OF THE ASSETS OF THE RETIREMENT SYSTEM, SO AS TO CHANGE THE CUSTODIAN OF THE ASSETS FROM THE STATE TREASURER TO THE BOARD OF DIRECTORS OF PEBA; TO AMEND SECTION 1-3-240, AS AMENDED, RELATING TO THE REMOVAL OF OFFICERS BY THE GOVERNOR, SO AS TO ADD THE SOUTH CAROLINA RETIREMENT INVESTMENT COMMISSION MEMBERS AND THE SOUTH CAROLINA PUBLIC BENEFIT AUTHORITY MEMBERS; AND TO REPEAL SECTIONS 9-4-45, 9-8-170, 9-9-160, 9-10-80, AND 9-11-250 RELATING TO POLICY DETERMINATIONS AND THE CUSTODY OF FUNDS FOR THE RETIREMENT SYSTEM FOR JUDGES AND SOLICITORS, THE RETIREMENT SYSTEM FOR MEMBERS OF THE GENERAL ASSEMBLY, THE NATIONAL GUARD RETIREMENT SYSTEM, AND THE POLICE OFFICERS RETIREMENT SYSTEM.

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

Part I

Funding of the Retirement System

**Retirement System employer and employee contribution rates**

SECTION 1. Section 9-1-1085 of the 1976 Code, as added by Act 278 of 2012, is amended to read:

“Section 9-1-1085. (A) As provided in Sections 9-1-1020 and 9-1-1050, the employer and employee contribution rates for the system beginning in Fiscal Year 2017-2018, expressed as a percentage of earnable compensation, are as follows:

Fiscal Year	Employer Contribution	Employee Contribution
2017-2018	13.56	9.00
2018-2019	14.56	9.00
2019-2020	15.56	9.00
2020-2021	16.56	9.00
2021-2022	17.56	9.00
2022-2023	18.56	9.00
2023-2024	18.56	9.00
2024-2025	18.56	9.00
2025-2026	18.56	9.00
2026-2027 and after	18.56	9.00

The employer contribution rate set out in this schedule includes contributions for participation in the incidental death benefit plan provided in Sections 9-1-1770 and 9-1-1775. The employer contribution rate for employers that do not participate in the incidental death benefit plan must be adjusted accordingly.

(B) After June 30, 2027, the board may increase the percentage rate in employer contributions for the system on the basis of the actuarial valuation. An increase in the employer contribution rate adopted by the board pursuant to this section may not provide for an increase in an amount of more than one-half of one percent of earnable compensation in any one year.

(C)(1) The unfunded actuarial accrued liability (UAAL) of the system as determined by the annual actuarial valuation must be amortized over a funding period that does not exceed the following schedule:

Fiscal Year	Funding Period
2017-2018	30 years
2018-2019	29 years
2019-2020	28 years
2020-2021	27 years
2021-2022	26 years
2022-2023	25 years
2023-2024	24 years
2024-2025	23 years
2025-2026	22 years
2026-2027	21 years
2027-2028 and after	20 years

(2) If the scheduled employer and employee contributions provided in subsection (A), or the rates last adopted by the board pursuant to subsection (B), are insufficient to meet the funding period set forth in item (1) for the applicable year, then the board shall increase the employer contribution rate as necessary to meet the funding period set forth in item (1). Such adjustments may be made without regard to the annual limit increase of one-half of one percent of earnable compensation provided pursuant to subsection (B). Participating employers must be notified of any contribution rate increase required by this item by July first of the fiscal year preceding the fiscal year in which the increase takes effect.

(D)(1) After June 30, 2027, if the most recent annual actuarial valuation of the system shows a ratio of the actuarial value of system assets to the actuarial accrued liability of the system (the funded ratio) that is equal to or greater than eighty-five percent, then the board, effective on the following July first, may decrease the then current employer and employee contribution rates in equal amounts upon making a finding that the decrease will not result in a funded ratio of less than eighty-five percent. However, the employee contribution rate may not be less than one-half of the normal cost for the system and any contribution reduction allowed by this item after the employee contribution rate equals one-half of the normal cost must be a reduction in the employer contribution rate.

(2) If contribution rates are decreased pursuant to item (1) of this subsection and the most recent annual actuarial valuation of the system shows a funded ratio of less than eighty-five percent, then effective on the following July first, and annually after that time as necessary, the board shall increase the then current employer and employee contribution rates in equal amounts not exceeding one-half of one percent of earnable compensation in any one year until a subsequent annual actuarial valuation of the system shows a funded ratio that is equal to or greater than eighty-five percent. However, the employee contribution rate may not exceed nine percent and any contribution increase required by this item after the employee contribution rate equals nine percent must be an employer contribution rate.”

**Police Officers Retirement System employer and employee contribution rates**

SECTION 2. Section 9-11-225 of the 1976 Code, as added by Act 278 of 2012, is amended to read:

“Section 9-11-225. (A) As provided in Sections 9-11-210 and 9-11-220, the employer and employee contribution rates for the system beginning in Fiscal Year 2017-2018, expressed as a percentage of earnable compensation, are as follows:

Fiscal Year	Employer Contribution	Employee Contribution
2017-2018	16.24	9.75
2018-2019	17.24	9.75
2019-2020	18.24	9.75
2020-2021	19.24	9.75
2021-2022	20.24	9.75
2022-2023	21.24	9.75
2023-2024	21.24	9.75
2024-2025	21.24	9.75
2025-2026	21.24	9.75
2026-2027 and after	21.24	9.75

The employer contribution rate set out in this schedule includes contributions for participation in the incidental death benefit plan provided in Sections 9-11-120 and 9-11-125 and for participation in the accidental death benefit program provided in Section 9-11-140. The employer contribution rate for employers that do not participate in these programs must be adjusted accordingly.

(B) After June 30, 2027, the board may increase the percentage rate in employer contributions for the system on the basis of the actuarial valuation. An increase in the employer contribution rate adopted by the board pursuant to this section may not provide for an increase in an amount of more than one-half of one percent of earnable compensation in any one year.

(C)(1) The unfunded actuarial accrued liability (UAAL) of the system as determined by the annual actuarial valuation must be amortized over a funding period that does not exceed the following schedule:

Fiscal Year	Funding Period
2017-2018	30 years
2018-2019	29 years
2019-2020	28 years
2020-2021	27 years
2021-2022	26 years
2022-2023	25 years
2023-2024	24 years
2024-2025	23 years
2025-2026	22 years
2026-2027	21 years
2027-2028 and after	20 years



(2) If the scheduled employer and employee contributions provided in subsection (A), or the rates last adopted by the board pursuant to subsection (B), are insufficient to meet the funding period set forth in item (1), for the applicable year, then the board shall increase the employer contribution rate as necessary to meet the funding period set forth in item (1). Such adjustments may be made without regard to the annual limit increase of one-half of one percent of earnable compensation provided pursuant to subsection (B). Participating employers must be notified of any contribution rate increase required by this item by July first of the fiscal year preceding the fiscal year in which the increase takes effect.

(D)(1) After June 30, 2027, if the most recent annual actuarial valuation of the system shows a ratio of the actuarial value of system assets to the actuarial accrued liability of the system (the funded ratio) that is equal to or greater than eighty-five percent, then the board, effective on the following July first, may decrease the then current employer and employee contribution rates in equal amounts upon making a finding that the decrease will not result in a funded ratio of less than eighty-five percent. However, the employee contribution rate may not be less than one-half of the normal cost for the system and any contribution reduction allowed by this item after the employee contribution rate equals one-half of the normal cost must be a reduction in the employer contribution rate.

(2) If contribution rates are decreased pursuant to item (1) of this subsection and the most recent annual actuarial valuation of the system shows a funded ratio of less than eighty-five percent, then effective on the following July first, and annually after that time as necessary, the board shall increase the then current employer and employee contribution rates in equal amounts not exceeding one-half of one percent of earnable compensation in any one year until a subsequent annual actuarial valuation of the system shows a funded ratio that is equal to or greater than eighty-five percent. However, the employee contribution rate may not exceed nine and three quarters of one percent and any contribution increase required by this item after the employee contribution rate equals nine and three quarters of one percent must be an increase in the employer contribution rate.”

#### **Assumed annual rate of return**

SECTION 3. Section 9-16-335 of the 1976 Code, as added by Act 278 of 2012, is amended to read:

“Section 9-16-335. (A) For all purposes of this title, the assumed annual rate of return on the investments of the Retirement System must be established by the General Assembly pursuant to this section. Effective July 1, 2017, the assumed annual rate of return on retirement system investments is seven and one quarter percent.

(B) The assumed rate of return set in subsection (A) expires on July 1, 2021. A new annual rate of return must be set and made effective no later than July 1, 2021, and, every four years after, a new annual rate must be set and made effective. Before January first of each year that the assumed rate of return is due to expire, the board shall submit a proposed assumed annual rate of return for the corresponding four-year period. The proposed assumed annual rate of return must be developed based on the recommendations of the board’s actuary and in consultation with the commission, and must be submitted to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee. If the General Assembly does not enact a joint resolution that continues or amends the assumed annual rate of return before expiration, the assumed annual rate of return developed and submitted by the board takes effect for the corresponding four-year period until subsequent action of the General Assembly.”

## Part II

### Public Employee Benefit Authority

#### **South Carolina Public Employee Benefit Authority**

SECTION 4. Section 9-4-10 of the 1976 Code, as added by Act 278 of 2012, is amended to read:

“Section 9-4-10. (A) Effective July 1, 2012, there is created the South Carolina Public Employee Benefit Authority. The sole governing body of the authority is a board of directors consisting of eleven members. The functions of the authority must be performed, exercised, and discharged under the supervision and direction of the board of directors.

(B)(1) The board is composed of:

- (a) three nonrepresentative members appointed by the Governor;
- (b) two members appointed by the President Pro Tempore of the Senate, one a nonrepresentative member and one a representative member who is either an active or retired member of SCPORS;

(c) two members appointed by the Chairman of the Senate Finance Committee, one a nonrepresentative member and one a representative member who is a retired member of SCRS;

(d) two members appointed by the Speaker of the House of Representatives, one a nonrepresentative member and one a representative member who must be a state employee who is an active contributing member of SCRS; and

(e) two members appointed by the Chairman of the House Ways and Means Committee, one a nonrepresentative member and one a representative member who is an active contributing member of SCRS employed by a public school district.

(2) For purposes of the appointments provided by this section, a nonrepresentative member may not belong to those classes of employees and retirees from whom representative members must be appointed.

(C)(1) A nonrepresentative member may not be appointed to the board unless the person possesses at least one of the following qualifications:

(a) at least twelve years of professional experience in the financial management of pensions or insurance plans;

(b) at least twelve years academic experience and holds a bachelor's or higher degree from a college or university as classified by the Carnegie Foundation;

(c) at least twelve years of professional experience as a certified public accountant with financial management, pension, or insurance audit expertise;

(d) at least twelve years as a Certified Financial Planner credentialed by the Certified Financial Planner Board of Standards; or

(e) at least twelve years membership in the South Carolina Bar and extensive experience in one or more of the following areas of law:

(i) taxation;

(ii) insurance;

(iii) health care;

(iv) securities;

(v) corporate;

(vi) finance; or

(vii) the Employment Retirement Income Security Act (ERISA).

(2) A representative member may not be appointed to the board unless the person:

(a) possesses one of the qualifications set forth in item (1); or

(b) has at least twelve years of public employment experience and holds a bachelor's degree from a college or university as classified by the Carnegie Foundation.

(D) In making appointments, the appointing authorities shall select members who are representative of the racial, gender, and geographical diversity of the State.

(E) Members of the board shall serve for terms of four years and until their successors are appointed and qualify, except that the terms of the board members appointed by the Governor on July 1, 2016, expire on June 30, 2018, the terms of the nonrepresentative board members appointed by members of the General Assembly on July 1, 2016, expire on June 30, 2019, and the terms of the representative board members appointed by members of the General Assembly on July 1, 2016, expire on June 30, 2020. Vacancies must be filled within sixty days in the manner of original appointment for the unexpired portion of the term. Terms expire after June thirtieth of the year in which the term is due to expire. Upon a person's appointment, the appointing official shall certify to the Secretary of State that the appointee meets or exceeds the qualifications set forth in subsections (B) and (C). A person appointed may not qualify unless he first certifies that he meets or exceeds the qualifications applicable for their appointment. A member may be removed before the term expires only by the Governor for the reasons provided in Section 1-3-240(C). A member may not be appointed to serve more than two consecutive four-year terms, except that a member of the board who has five or more years of consecutive service on the board at the expiration of his term, beginning July 1, 2016, may not be appointed to serve for more than one additional consecutive four-year term.

(F) The members shall select a nonrepresentative member to serve as chairman and shall select those other officers they determine necessary. Subject to the qualifications for chairman provided in this section, members may set their own policy related to the rotation of the selection of a chairman of the board.

(G)(1) Each member shall receive an annual salary of twelve thousand dollars. This compensation must be paid from approved accounts of general funds and retirement system funds based on the proportionate amount of time the board devotes to its various functions. Members may receive the mileage and subsistence authorized by law for members of state boards, commissions, and committees paid from approved accounts funded by general funds and retirement system funds in the proportion that compensation is paid.

(2) Notwithstanding any other provision of law, membership on the board does not make a member eligible to participate in a retirement system administered pursuant to this title and does not make a member eligible to participate in the employee insurance program administered pursuant to Article 5, Chapter 11, Title 1. Any compensation paid on account of the member's service on the board is not considered earnable compensation for purposes of any state retirement system.

(H) Minimally, the board shall meet quarterly and at other times set by the board. If the chairman considers it more effective, the board may meet by teleconferencing or video conferencing. However, if the agenda of the meeting consists of items that are not exempt from disclosure or the meeting may not be closed to the public pursuant to Chapter 4, Title 30, the provisions of Chapter 4, Title 30 apply, and the meeting must be open to the public.

(I) Effective July 1, 2012, the following offices, divisions, or components of the State Budget and Control Board are transferred to, and incorporated into, an administrative agency of state government to be known as the South Carolina Public Employee Benefit Authority:

- (1) Employee Insurance Program; and
- (2) the Retirement Division.

(J) The board shall employ an executive director who will serve at the pleasure of the board. The executive director is the chief administrative officer of the authority as an agency and is charged with the affirmative duty to carry out the mission, policies, and direction of the board as established by the board. The executive director is delegated all the authority of the board necessary, reasonable, and prudent to carry out the operation and management of the authority as an agency and to implement the board's decisions and directives. The executive director shall employ the other professional, administrative, and clerical personnel he determines necessary to support the administration and operation of the authority and fix their compensation pursuant to an organizational plan approved by the authority.

(K) Members of the board and the executive director, and other employees or agents designated by the board, are fiduciaries of the authority and in discharging their duties as fiduciaries shall act:

- (1) only in the interest of the participants and beneficiaries of the employee benefit plans administered by the authority;
- (2) for the exclusive purpose of providing retirement and insurance benefits to participants and beneficiaries of the employee benefit plans administered by the authority and paying reasonable expenses of administering those employee benefit plans;

(3) with the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;

(4) impartially, taking into account any differing interests of participants and beneficiaries;

(5) incurring only costs that are appropriate and reasonable; and

(6) in accordance with a good faith interpretation of this chapter and other applicable provisions of law.

(L)(1) A board member or other fiduciary employed by the authority who breaches a duty imposed by this section personally is liable to the affected employee benefit plan administered by the authority for any losses resulting from the breach and any profits resulting from the breach or made by the board member or other fiduciary through use of assets of the employee benefit plan by the board member or other fiduciary. The board member or other fiduciary is subject to other equitable remedies, as the court considers appropriate, including removal.

(2) An agreement that purports to limit the liability of a fiduciary for a breach of duty under this section is void.

(3) The authority may insure a fiduciary or itself against liability or losses occurring because of a breach of duty under this section.

(4) A fiduciary may insure against personal liability or losses occurring because of a breach of duty under this section if the insurance is purchased or provided by the individual fiduciary, but a fiduciary who obtains insurance pursuant to this section shall disclose all terms, conditions, and other information relating to the insurance policy to the authority.

(5) Nothing in this subsection may be construed to limit the applicability of the provisions of Section 9-4-15.”

### **Fiduciary audit of PEBA**

SECTION 5. Section 9-4-40 of the 1976 Code, as last amended by Act 278 of 2012, is further amended to read:

“Section 9-4-40. Every four years the State Auditor shall employ a private audit firm to perform a fiduciary audit on the South Carolina Public Employee Benefit Authority. The audit firm must be selected by the State Auditor. A report from the private audit firm must be completed by January 15, 2019, and every four years after that time. Upon completion, the report must be submitted to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of

Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee.”

#### **Actuary for PEBA board**

SECTION 6. Section 9-1-240 of the 1976 Code is amended to read:

“Section 9-1-240. The board shall designate an actuary, subject to the approval of the State Fiscal Accountability Authority or its successor, who is the technical advisor of the board on matters regarding the operation of the system and shall perform such other duties as are required in connection therewith, provided, however, that the Retirement System Investment Commission is a third-party beneficiary of the contract with the actuary, with full rights to all actuarial valuations prepared by the actuary. The board shall provide to the State Fiscal Accountability Authority or its successor actuarial valuations and reports requested.”

### Part III

#### Retirement System Investment Commission

#### **Definition**

SECTION 7. Section 9-16-10(4) of the 1976 Code, as last amended by Act 153 of 2005, is further amended by adding an appropriately lettered subitem to read:

“( ) is the commission’s chief executive officer.”

#### **Shareholder proxy votes**

SECTION 8. Section 9-16-30 of the 1976 Code, as last amended by Act 153 of 2005, is further amended by adding an appropriately lettered subsection to read:

“( ) The commission shall cast shareholder proxy votes that are in keeping with its fiduciary duties that are consistent with the best interest of the trust fund and most likely to maximize shareholder value.”

**Investment reports**

SECTION 9. Section 9-16-90(B) of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

“(B) In addition to the quarterly reports provided in subsection (A), the commission shall provide an annual report to the State Fiscal Accountability Authority, Revenue and Fiscal Affairs Office, and the Executive Budget Office, the Speaker of the House of Representatives, members of the House of Representatives or Senate, but only upon their request, the President Pro Tempore of the Senate, and other appropriate officials and entities of the investment status of the retirement systems. The report must contain:

(1) a description of a material interest held by a trustee, fiduciary, or an employee who is a fiduciary with respect to the investment and management of assets of the system, or by a related person, in a material transaction with the system within the last three years or proposed to be effected;

(2) a schedule of the rates of return, net of total investment expense, on assets of the system overall and on assets aggregated by category over the most recent one-year, three-year, five-year, and ten-year periods, to the extent available, and the rates of return on appropriate benchmarks for assets of the system overall and for each category over each period;

(3) a schedule of the sum of total investment expense, manager fees and expenses, and general administrative expenses for the fiscal year expressed as a percentage of the fair value of assets of the system on the last day of the fiscal year, and an equivalent percentage for the preceding five fiscal years;

(4) a schedule of the net manager fees and expenses for each asset class for the fiscal year, including the total amount of manager fee and expense for each asset class and the amount of manager fee and expense for each asset class divided into the amounts attributable to management fees, performance fees or carried interest, and other expenses charged to the managed investment vehicle. The amount of manager fees and expenses must be expressed in total, and in each category of fee and expense, as a dollar amount and a percentage of the fair value of assets of the system on the last day of the fiscal year. The schedule also must include the net investment return for each asset class. In addition to being included in the annual report required by this subsection, the schedule of manager fees and expenses required by this item also must be published in a conspicuous location on the commission’s website;



(5) a schedule of all assets held for investment purposes on the last day of the fiscal year aggregated and identified by issuer, borrower, lessor, or similar party to the transaction stating, if relevant, the asset's maturity date, rate of interest, par or maturity value, number of shares, costs, and fair value and identifying an asset that is in default or classified as uncollectible; and

(6) a schedule of investment decisions that have been delegated from the commission to the chief investment officer to include the name, asset class, asset value, fees paid, and performance since inception by the manager.

These disclosure requirements are cumulative to and do not replace other reporting requirements provided by law.”

### **Retirement System Investment Commission**

SECTION 10. Section 9-16-315 of the 1976 Code, as last amended by Act 278 of 2012, is further amended to read:

“Section 9-16-315. (A) There is established the ‘Retirement System Investment Commission’ (RSIC) consisting of eight members, seven of which have voting privileges, as follows:

(1) two members appointed by the Governor, one of which is an active member of the South Carolina Retirement System, Police Officers Retirement System, the Judges and Solicitors Retirement System, or the National Guard Retirement System;

(2) one member appointed by the State Treasurer;

(3) one member appointed by the Comptroller General;

(4) one member appointed by the Chairman of the Senate Finance Committee;

(5) one member appointed by the Chairman of the House Ways and Means Committee;

(6) one member who is a retired member of the South Carolina Retirement System, Police Officers Retirement System, Judges and Solicitors Retirement System, or National Guard Retirement System. This representative member must be appointed by unanimous vote of the voting members of the commission; and

(7) the Executive Director of South Carolina Public Employee Benefit Authority, ex officio, without voting privileges.

(B) In making appointments, the appointing authorities shall select members who are representative of the racial, gender, and geographical diversity of the State.

Members shall serve for terms of four years and until their successors are appointed and qualify. Except for the Executive Director of the South Carolina Public Employee Benefit Authority, a person appointed may not serve until the appointing official certifies to the Secretary of State that the appointee meets or exceeds the qualifications set forth in subsections (D) and (E). A person appointed may not qualify unless he first certifies that he meets or exceeds the qualifications applicable for his appointment. Terms are deemed to expire after June thirtieth of the year in which the term is due to expire. Members are appointed for a term and may be removed before the term expires only by the Governor for the reasons provided in Section 1-3-240(C). A member may not be appointed to serve more than two consecutive full four-year terms. A member serving a second or greater term, beginning July 1, 2016, may not serve an additional consecutive four-year term upon the expiration of his term pursuant to the provisions of this subsection. A member who has served for ten or more years as of July 1, 2017, may complete the term for which he was appointed but may not be reappointed to the commission.

(C) The commission shall select one of the voting members to serve as chairman and shall select those other officers it determines necessary.

(D) A person may not be appointed to the commission unless the person possesses at least one of the following qualifications:

(1) the Chartered Financial Analyst credential of the CFA Institute;

(2) at least twelve years as a Certified Financial Planner credentialed by the Certified Financial Planner Board of Standards;

(3) the Chartered Alternative Investment Analyst certification of the Chartered Alternative Investment Analyst Association;

(4) at least twenty years professional actuarial experience, including at least ten as an Enrolled Actuary licensed by a Joint Board of the Department of the Treasury and the Department of Labor, to perform a variety of actuarial tasks required of pension plans in the United States by the Employee Retirement Income Security Act of 1974;

(5) at least twenty years professional teaching experience in economics or finance, ten of which must have occurred at a doctorate-granting university, master-granting college or university, or a baccalaureate college as classified by the Carnegie Foundation;

(6) an earned Ph.D. in economics or finance from a doctorate-granting institution as classified by the Carnegie Foundation;

(7) the Certified Internal Auditor credential of The Institute of Internal Auditors;

(8) at least twelve years of professional experience in the financial management of pensions or insurance plans; or

(9) at least twelve years of professional experience as a certified public accountant with financial management, pension, or insurance audit expertise.

(E) Except for the member appointed pursuant to subsection (A)(6) and (7), a person may not be appointed or continue to serve who is an elected or appointed officer of the State or any of its political subdivisions, including school districts.

(F) The Retirement System Investment Commission is established to invest the funds of the retirement system. All of the powers and duties of the State Budget and Control Board as investor in equity securities and the State Treasurer's function of investing in fixed income instruments are transferred to and devolved upon the Retirement System Investment Commission.

(G) The commission shall employ a chief executive officer who serves at the pleasure of the commission. The chief executive officer is the chief administrative officer of the commission as an agency and is charged with the affirmative duty to carry out the mission, policies, and direction of the commission as established by the commission. The chief executive officer is delegated the authority of the commission necessary, reasonable, and prudent to carry out the operation and management of the commission as an agency and to implement the commission's decisions and directives. Notwithstanding Section 9-16-30, the chief executive officer may execute on behalf of the commission any documents necessary to implement a final decision to invest.

(H)(1) The chief executive officer shall employ a chief investment officer. The chief investment officer shall develop and maintain annual investment plans and invest and oversee the investment of retirement system funds subject to the oversight of the chief executive officer.

(2) The chief executive officer shall employ the other professional, administrative, and clerical personnel he determines necessary to support the administration and operation of the commission and fix their compensation pursuant to an organizational plan approved by the commission. All employees of the commission are employees at will and serve at the pleasure of the chief executive officer. The compensation of the chief executive officer, chief investment officer, and other employees of the commission is not subject to the state compensation plan.

(I) Notwithstanding Section 1-7-170, the commission, in consultation with the Attorney General, may engage, on a fee basis, attorneys necessary to exercise its exclusive authority to invest and

manage the retirement system's assets. The commission shall establish policies and procedures for the retention of attorneys pursuant to this subsection and shall notify the Attorney General of the terms and conditions of a representation upon engagement. The commission shall provide quarterly reports to the Attorney General on attorneys retained, hourly rates, and estimated maximum fees, which he shall monitor for reasonableness and to ensure consistency with the terms and conditions of the representation.

(J)(1) The administrative costs of the Retirement System Investment Commission must be paid from the earnings of the state retirement system.

(2) Each commission member, except for the Executive Director of the South Carolina Public Employee Benefit Authority, shall receive an annual salary of twenty thousand dollars plus mileage and subsistence as provided by law for members of state boards, committees, and commissions. Notwithstanding any other provision of law, membership on the commission does not make a member eligible to participate in a retirement system administered pursuant to this title and does not make a member eligible to participate in the employee insurance program administered pursuant to Article 5, Chapter 11, Title 1, if the member is not otherwise eligible. Compensation paid on account of the member's service on the commission is not considered earnable compensation for purposes of any retirement system administered pursuant to this title."

#### **Authority to invest**

SECTION 11. Section 9-16-330 of the 1976 Code, as last amended by Act 153 of 2005, is further amended to read:

"Section 9-16-330. (A) The commission shall provide the chief executive officer and the chief investment officer with a statement of general investment objectives. The commission also shall provide the chief executive officer and the chief investment officer with a statement of actuarial assumptions developed by the system's actuary and approved by the board. The commission shall review the statement of general investment objectives annually for the purpose of affirming or changing it and advise the chief executive officer and the chief investment officer of its actions. The retirement system shall provide the commission, its chief executive officer and chief investment officer that data or other information needed to prepare the annual investment plan.

(B)(1) Notwithstanding Section 9-16-30(A), the commission's statement of general investment objectives may include a delegation to

the chief investment officer of the final authority to invest an amount not to exceed:

(a) two percent of the total value of portfolio assets for each investment, if the investment is in assets that are publicly tradeable and the investment provides for liquidity in ninety days or less; or

(b) one percent of the total value of portfolio assets for each investment, if the investment is in assets that are not publicly tradeable or the investment's liquidity provision is greater than ninety days.

(2) Any final authority delegated to the chief investment officer pursuant to this subsection must be exercised subject to the oversight of the chief executive officer. The closing documentation of an investment made pursuant to this delegation must include the chief executive officer's certification that the investment conforms to the amount and the extent of the delegation. Any authority exercised pursuant to this section must be exercised in a manner consistent with the limitations imposed by this section and investments may not be divided into smaller amounts in order to avoid these limitations. The commission must be notified of an investment made pursuant to any delegated authority within three business days of the investment's closing and the investment must be reviewed with the commission at its next regularly scheduled meeting. The commission may amend, suspend, or revoke the delegation of the final authority to invest at any time and may place stricter limits on any delegated authority than those provided in this subsection.

(C) The annual investment plan must be consistent with actions taken by the commission pursuant to subsection (A) and must include, but is not limited to, the following components:

(1) general operational and investment policies;

(2) investment objectives and performance standards;

(3) investment strategies, which may include indexed or enhanced indexed strategies as the preferred or exclusive strategies for equity investing, and an explanation of the reasons for the selection of each strategy;

(4) industry sector, market sector, issuer, and other allocations of assets that provide diversification in accordance with prudent investment standards, including desired rates of return and acceptable levels of risks for each asset class;

(5) policies and procedures providing flexibility in responding to market contingencies;

(6) procedures and policies for selecting, monitoring, compensating, and terminating investment consultants, equity

investment managers, and other necessary professional service providers;

(7) methods for managing the costs of the investment activities; and

(8) a detailed description of the amount and extent of the final authority to invest made by the commission pursuant to subsection (B).

(D) In developing the annual investment plan, the chief investment officer shall:

(1) diversify the investments of the retirement systems, unless the commission reasonably determines that, because of special circumstances, it is clearly not prudent to do so; and

(2) make a reasonable effort to verify facts relevant to the investment of assets of the retirement systems.

(E) Before the implementation of delegation of final investment authority from the commission to the chief investment officer, the commission's external investment consultant shall provide an analysis of the extent of investment authority delegation in other public pension funds, including resulting investment performance, and recommendations regarding policy parameters to govern investment authority delegation. The analysis and recommendations must be completed and provided to the commission before the implementation of delegation of final investment authority to the chief investment officer."

#### **Fiduciary audit of RSIC**

SECTION 12. Section 9-16-380 of the 1976 Code, as added by Act 278 of 2012, is amended to read:

"Section 9-16-380. Every four years the State Auditor shall employ a private audit firm to perform a fiduciary audit on the Retirement System Investment Commission. The audit firm must be selected by the State Auditor. A report from the private audit firm must be completed by January 15, 2019, and every four years after that time. Upon completion, the report must be submitted to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Chairman of the Senate Finance Committee, and the Chairman of the House Ways and Means Committee."

**Restrictions on lobbyists**

SECTION 13. Article 1, Chapter 16, Title 9 of the 1976 Code is amended by adding:

“Section 9-16-100. (A) A lobbyist, as defined in Section 2-17-10(13), may not contact any member of the commission, the chief executive officer, chief investment officer, or staff member of the commission to solicit the investment of funds with a particular entity regardless of whether the lobbyist represents that entity.

(B) The commission may not make an investment with or invest in a fund managed by an external investment manager if a placement agent receives compensation as a result of the commission’s investment. For purposes of this subsection, ‘placement agent’ means an individual directly or indirectly hired, engaged, or retained by, or serving for the benefit of or on behalf of, an external manager or an investment fund managed by an external manager, and who acts or has acted for compensation as a finder, solicitor, marketer, consultant, broker, or other intermediary in connection with making an investment with or investing in a fund managed by the external investment manager.

(C) The commission may not invest in any asset or with any entity in which a commissioner or his immediate family has any interest. This subsection does not apply to publicly traded securities.”

**Part IV****Administration of Retirement System Funds****Cotrustees of Retirement System**

SECTION 14. Section 9-1-1310(A) of the 1976 Code, as last amended by Act 278 of 2012, is further amended to read:

“(A) The South Carolina Public Employee Benefit Authority and the Retirement System Investment Commission are cotrustees of the assets of the retirement system as ‘assets’ and ‘retirement system’ are defined in Section 9-16-10(1) and (8). Notwithstanding any other provision of law, any reference in law to the trustee of the assets of the Retirement System must be construed to conform to the cotrusteeship as provided in this subsection. The Public Employee Benefit Authority shall hold the assets of the Retirement System in a group trust as provided in Section 9-16-20. The Retirement System Investment Commission shall invest

and reinvest the assets of the Retirement System, subject to all the terms, conditions, limitations, and restrictions imposed by Section 16, Article X of the South Carolina Constitution, 1895, subsection (B) of this section, and Chapter 16 of this title.”

### **Custodian of assets of the Retirement System**

SECTION 15. Section 9-1-1320 of the 1976 Code is amended to read:

“Section 9-1-1320. (A) The board is the custodian of the assets of the Retirement System as ‘assets’ and ‘Retirement System’ are defined in Section 9-16-10(1) and (8), and the Retirement System Investment Commission has the exclusive authority to select the custodial bank, provided, however, that the Public Employee Benefit Authority is a third-party beneficiary of the contract with the custodial bank with full rights to information under them. The custodial banking agreement may provide for electronic signatory approval.

(B)(1) A custodial bank selected by the commission must:

- (a) be a United States domiciled trust company and a member of the Federal Reserve;
- (b) have in excess of one trillion dollars of assets under custody;
- (c) have provided custody services for at least the previous fifteen years; and
- (d) provide custody services to other public fund institutional clients that individually have assets under management that meet or exceed the amount of assets managed by the commission.

(2) Nothing in this subsection prohibits the commission from imposing more stringent or additional qualifications as part of its selection process.”

### Part V

#### Miscellaneous and Time Effective

### **Removal of officers by the Governor**

SECTION 16. Section 1-3-240(C)(1) of the 1976 Code, as last amended by Act 275 of 2016, is further amended by adding appropriately lettered subitems to read:

“( ) South Carolina Retirement Investment Commission members appointed by the Governor or members of the General Assembly;



( ) South Carolina Public Benefit Authority members.”

**Repeal**

SECTION 17. Sections 9-4-45, 9-8-170, 9-9-160, 9-10-80, and 9-11-250 of the 1976 Code are repealed.

**Time effective**

SECTION 18. This act takes effect on July 1, 2017.

Ratified the 19<sup>th</sup> day of April, 2017.

Approved the 25<sup>th</sup> day of April, 2017.

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**No. 14**

(R23, H3793)

**AN ACT TO AMEND SECTION 59-103-15, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE MISSION AND GOALS OF INSTITUTIONS OF HIGHER LEARNING, SO AS TO AUTHORIZE CERTAIN DEGREE PROGRAMS SO LONG AS STATE GENERAL FUNDS ARE NOT APPROPRIATED FOR THE OPERATIONS OF THE DEGREE PROGRAM.**

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

**Degrees authorized, funding contingency**

SECTION 1. Section 59-103-15 of the 1976 Code, as last amended by Act 213 of 2012, is further amended to read:

“Section 59-103-15. (A)(1) The General Assembly has determined that the mission for higher education in South Carolina is to be a global leader in providing a coordinated, comprehensive system of excellence in education by providing instruction, research, and life-long learning opportunities which are focused on economic development and benefit the State of South Carolina.

(2) The goals to be achieved through this mission are:

- (a) high academic quality;
- (b) affordable and accessible education;
- (c) instructional excellence;
- (d) coordination and cooperation with public education;
- (e) cooperation among the General Assembly, Commission on Higher Education, Council of Presidents of State Institutions, institutions of higher learning, and the business community;
- (f) economic growth;
- (g) clearly defined missions.

(B) The General Assembly has determined that the primary mission or focus for each type of institution of higher learning or other post-secondary school in this State is as follows:

(1) Research institutions

- (a) college-level baccalaureate education, master's, professional, and doctor of philosophy degrees which lead to continued education or employment;
- (b) research through the use of government, corporate, nonprofit-organization grants, or state resources, or both;
- (c) public service to the State and the local community;

(2) Four-year colleges and universities

- (a) college-level baccalaureate education and selected master's degrees which lead to employment or continued education, or both, except for doctoral degrees currently being offered;
- (b) bachelor of science degree in Mechanical Engineering approved by the Commission on Higher Education at South Carolina State University;
- (c) bachelor of science degree in Electrical Engineering approved by the Commission on Higher Education at South Carolina State University;
- (d) doctoral degree in Marine Science approved by the Commission on Higher Education;
- (e) subject to subsection (C), doctoral degree in Nursing Practice approved by the Commission on Higher Education at Francis Marion University;
- (f) subject to subsection (C), doctoral degree in Nursing Practice approved by the Commission on Higher Education at the University of South Carolina Aiken;
- (g) subject to subsection (C), doctor of philosophy degree in Education Administration approved by the Commission on Higher Education at Coastal Carolina University;

(h) subject to subsection (C), doctor of philosophy degree in Computer and Information Science approved by the Commission on Higher Education at the College of Charleston;

(i) limited and specialized research;

(j) public service to the State and the local community;

(3) Two-year institutions - branches of the University of South Carolina

(a) college-level pre-baccalaureate education necessary to confer associates degrees which lead to continued education at a four-year or research institution;

(b) public service to the State and the local community;

(4) State technical and comprehensive education system

(a) all post-secondary vocational, technical, and occupational diploma and associate degree programs leading directly to employment or maintenance of employment and associate degree programs which enable students to gain access to other post-secondary education;

(b) up-to-date and appropriate occupational and technical training for adults;

(c) special school programs that provide training for prospective employees for prospective and existing industry in order to enhance the economic development of South Carolina;

(d) public service to the State and the local community;

(e) continue to remain technical, vocational, or occupational colleges with a mission as stated in item (4) and primarily focused on technical education and the economic development of the State.

(C) Notwithstanding subsection (B), the doctoral degrees set forth in subsection (B)(2)(c), (d), and (e) are only allowed so long as new state general funds are not appropriated for the operations of the degree program.”

### **Time effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 19<sup>th</sup> day of April, 2017.

Approved the 24<sup>th</sup> day of April, 2017.

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