



THE HONORABLE CURTIS M. LOFTIS, JR.

State Treasurer

January 24, 2012

The Honorable Nikki Haley
Governor, State of South Carolina
The State House
Columbia, South Carolina

The Honorable Richard Eckstrom
Comptroller General
3rd Floor Wade Hampton Office Building
Columbia, South Carolina

The Honorable Glenn F. McConnell
101 Gressette Building
Columbia, South Carolina

The Honorable Hugh K. Leatherman, Sr.
111 Gressette Building
Columbia, South Carolina

The Honorable Robert W. Harrell, Jr.
506 Blatt Building
Columbia, South Carolina

The Honorable W. Brian White
525 Blatt Building
Columbia, South Carolina

Dear Governor, Comptroller General, Senators and Representatives:

My office has been following with interest House Bill H.3066, the "South Carolina Restructuring Act of 2011," which among other things establishes the Department of Administration and transfers to this new department certain offices and divisions of the State Budget and Control Board. We generally support this bill and any other measures that will promote greater transparency, accountability and efficiency throughout state government.

As this legislation has evolved, it has attracted a significant number of amendments, ranging from minor modifications to those that would uproot the foundation of long-established and well-respected provisions throughout South Carolina law that promote an integral framework of executive oversight, separation of powers, and fiscal integrity. My purpose in writing is to provide perspective and guidance as you consider and deliberate this important legislation.

For more than sixty years, the South Carolina State Budget and Control Board has served as a central administrative agency for state government, providing such functions as human resources policy and benefits administration, facilities management, procurement, and communications and information technology services. These centralized functions, while extremely important, are somewhat perfunctory and are logical candidates for consolidation into a central administrative agency within the governor's cabinet. Governor Haley's Executive Budget for the fiscal year 2012-13 summarizes this concept in its proposal to create a Department of Administration, as follows:

The Budget and Control Board, an agency overseen by five elected officials from the executive and legislative branches of government, provides central administrative services for South Carolina's state agencies. This includes procurement, technology, budgeting, facilities and real estate, and a number of other critical back office functions.

We agree.

However, the State Budget and Control Board also exists as an executive body that has been empowered by the General Assembly to perform delegated discretionary acts and carry out executive responsibilities on behalf of the state. The Supreme Court has described the Board as “an executive body dealing primarily with the fiscal affairs of the State government...”¹

In this role, the Board functions similarly to a private sector board of directors, with collective oversight, and multiple perspectives and disciplines represented in making major decisions. Despite assertions that the Board is unique to South Carolina, every one of South Carolina’s AAA-rated peers has a similar counterpart that provides oversight most notably to matters of public finance, but extending as well in some states to such matters as state and retirement investments, administration of real assets including property acquisition, divestiture, and construction, along with other matters of statewide significance.

As the General Assembly deliberates the administrative and executive models that will be the result of the Restructuring Act, we strongly encourage continuation of an executive body separate from the Department of Administration to approve such matters as debt authorization, budget revision, deficit avoidance and correction, and property transactions in excess of appropriate thresholds; and to provide executive oversight to such functions as audit, revenue forecasting, and retirement plan administration and investment. Our recommendations are based upon the considerations that follow.

- Matters undertaken by the Board generally have broad public policy implications, and it is important that deliberations on such matters are conducted in ways that promote public confidence, participation and scrutiny.
- Bonded indebtedness, which is authorized, constrained and protected by the constitution and contractually binds the State to significant long term liability, must be judiciously undertaken and carefully administered. Pension and certain other long-term obligations, because of their debt-like characteristics, should be managed with the same level of oversight and degree of care.
- Certain functions, including audit and the revenue forecasting process performed by the Board of Economic Advisors, dictate a level of independence to maintain integrity and confidence. These functions should not be subject to singular oversight or political influence.

South Carolina’s high credit ratings are underpinned by its strong management characteristics that serve to offset its negative economic, wealth and income measures by contrast with its highly rated peers. In their most recent credit assessments of the state in February, 2011:

- Fitch Ratings commented that “South Carolina’s ‘AAA’ rating rests on the state’s proven ability and willingness to support fiscal balance” ... “with a budget and control board providing centralized and autonomous fiscal oversight.”
- Moody’s commented that “South Carolina continues to exercise conservative financial practices that have long been the key to its Aaa rating” and cited as strengths the state’s “legally defined procedures to assure timely budget adjustment,” and the interaction between the Board of Economic Advisors and mandated response of the Budget and Control Board in the event of revenue shortfalls. Moody’s report further identified a “change in management practices to a less conservative stance” as a determinant that could result in a downgrade.

¹ McLeod v. Edwards, 1977.

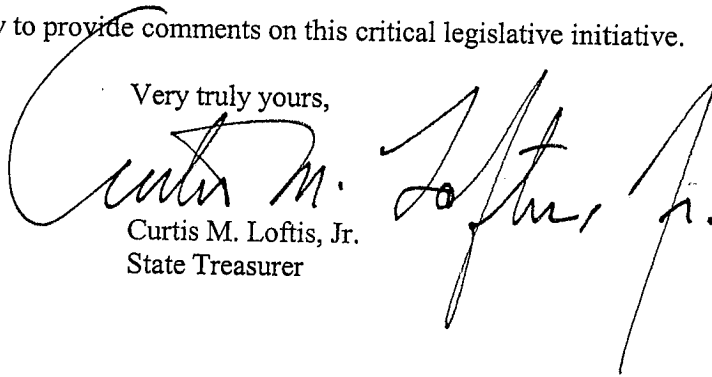
- Standard and Poor's commented that the state's financial outlook "reflects what we consider South Carolina's proactive management, which has contributed to financial performance in recent years..." Standard and Poor's rated the state's governmental framework with its strongest score because of constitutional requirements to approve balanced budgets, and statutorily mandated actions to ensure that budgets remain in balance. S&P further identified as a credit strength the Budget and Control Board's empowerment by statute to promptly adjust spending in times of economic challenge.

Accordingly, the credit rating services have identified the Board's authority and responsiveness as integral components of the State's management practices, and it is therefore critical that the state preserve this confidence if its high credit rating is to be maintained.

We therefore support the transfer of the basic administrative functions of the state to the Department of Administration as described in Governor Haley's executive budget proposal, but urge the General Assembly to maintain a separate executive oversight body authorized and empowered to exercise appropriate discretion in carrying out fiscal and other executive responsibilities within a construct that represents the ideals of acting solely in the interests of the taxpayer, the constituency, and the users of government services, and that is to the greatest extent possible devoid of autonomous action, political influence, and unconstrained exercise of power.

Thank you for the opportunity to provide comments on this critical legislative initiative.

Very truly yours,

A large, stylized handwritten signature in black ink, appearing to read "Curtis M. Loftis, Jr.", is written over the typed name and title.

Curtis M. Loftis, Jr.
State Treasurer

Based on our review of H.3066 and its many Senate amendments, we believe that the final restructuring bill must be consistent with the following three principles:

- The restructuring bill should not shift important government functions to political appointees who are not directly accountable to the citizens of South Carolina;
- The restructuring bill should allow for the continuance or creation of an executive body, which will approve or otherwise oversee matters relating to debt, real estate, audits of state agencies, revenue forecasting, and retirement system administration and investing, composed of elected officials who are directly accountable to the citizens of South Carolina; consistent with the best practices of other states. Note: Budget and Control Board is not unique, most states have some type of board for these responsibilities.
- The restructuring bill must allow the State Treasurer to continue his long-established role of independent oversight of the financial affairs of the State, including debt administration and as custodian of all State and retirement system funds. The treasurer's role is definable, and is expected by the electorate to whom he is accountable.

January 24, 2012



A handwritten signature in black ink, appearing to read "Haley".

State of South Carolina Office of the Governor

NIKKI R. HALEY
GOVERNOR

1205 PENDLETON STREET
COLUMBIA 29201

February 15, 2012

The Honorable Ken Ard
President of the Senate
Statehouse, First Floor, East Wing
Columbia, South Carolina 29201

Dear Mr. President and Members of the Senate,

First and foremost, thank you for all of your hard work on H.3066, the Department of Administration bill. Today, I hope you will stay, finish the job, and complete the greatest effort of reform and restructuring we have seen in decades. Several of you have asked my position on amendments that remain to be debated, so below are those amendments I would like to see passed and included in the Department of Administration.

I ask that you adopt Senator Campbell's Amendment 107, which would leave the Materials Management Office and the Office of State Engineer together under the Procurement Oversight Board while returning IT and IT procurement to the Department of Administration. Although we would prefer that the Department of Administration support all procurement activities, it is critical to at least include all of IT – both itself and its procurement – together under one agency.

I also ask you to adopt Senator Larry Martin's amendments to clarify responsibilities for procurement reporting, establish a strategic sourcing initiative, and to direct agencies to provide suggestions to improve our purchasing practices. These amendments will improve transparency and push state government to take a more business-like approach to procurement.

Additionally, I ask that you adopt Senator Massey's amendment that addresses some of the separation of powers issues discussed during prior debate. This amendment recognizes that the legislative authority to appropriate should be separated from executive responsibility for procurement, in which the Comptroller General and Treasurer would continue to play a role.

Finally, I urge you to oppose any efforts to attach unrelated provisions to this bill. Again, thank you for your hard work to move our state forward towards good government reform.

My very best,

A handwritten signature in black ink, appearing to read "Nikki R. Haley".

Nikki R. Haley

A handwritten signature in black ink, appearing to read "Thank you!".