

Lunch^{and} Learn

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S.C. Career Opportunity and Access for All Act What's in it for school boards?

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Webinar objectives

- Review provisions in the S.C. Career Opportunity and Access for All Act that are aimed at school boards, governance
- Get input on areas of support, questions or concerns
- Review legislative process, plans for the legislation as shared by the Speaker of the House and Senate Education chairman
- Discuss other major provisions of the Act

School Board Accountability

Code of ethics

- Directs State Board of Education (SBE) to adopt by July 1, 2020, a model code of ethics with appropriate consequences for violations for local school board members and for local boards to adopt the ethics code.
- Local board is to submit policy and any revisions to S.C. Department of Education (SCDE).
- Specifies board members and school officials must comply with the State Ethics, Government Accountability and Campaign Reform Act.
- Requires board members to sign a statement asserting understanding of ethics and nepotism policy and annually disclose compliance with training, ethics, nepotism policy and conflict of interest provisions.

Questions, concerns, statements

- School boards currently have policies on ethics.
- Violations of ethics may include public censure, reprimand.
- What is meant by appropriate consequences for violations?

Nepotism

- Requires boards to adopt nepotism policies.
- After June 3, 2020, a person cannot serve on the school board or as a school or district administrator if he/she has a family member who is hired as a school or district administrator after Dec. 31, 2020 – provision may be waived by SBE if the full-time enrollment of the district is fewer than 3,000 students and a public hearing is conducted.
- Individuals wishing to run for the board of a district employing a family member must seek waiver and participate in public hearing.

Questions, concerns, statements

- Provision prohibiting a citizen from seeking public office for a public entity that employs a family member is questionable.
- School board members, like all local public officials, are already prohibited under the state's ethics law from participating in an actions relating to the discipline or hiring, appointment, etc. of a family member.
- The bill seems to set a different standard for school boards than other elected bodies – why? If the provision is good, then should it not apply to all public officials?
- Especially problematic – one of the causes for removal.
- Concerned that it may become difficult to fill board seats and may raise constitutional issues.

Conflict of interests

Specifies 10 conditions that school board members are prohibited from doing in carrying out their board duties as follows:

- use his position to secure unwarranted privileges, advantages, or employment for himself, family members, or others
- act on any matter involving a business that he or his family has an economic interest in
- solicit or accept a gift, favor, loan, political contribution, service, promise of future employment, or other thing of value in exchange for influencing board decisions
- use his official position or his knowledge of information not generally available to the public for financial gain

Conflict of interests cont.

- represent a person or party, other than the local school district or its board, with any cause, proceeding, application, or other matter pending before the district
- be prohibited from inquiring about information on behalf of a constituent if nothing of value has been promised in return for the information
- disclose or discuss any information which is subject to attorney-client privilege belonging to the local school board unless the privilege has been waived by a two-thirds board vote
- serve as an officer of any organization that sells goods or services to the district, excluding not-for-profit organizations

Conflict of interests cont.

- unduly interfere with duties related to daily operations of superintendents, administrators
- specifies that a conflict of interest does not exist if a board member participates in a matter required to be voted upon, if no material or monetary gain accrues to him to any greater extent than reasonably could be expected to accrue to another member of his profession, occupation, or group
- specifies that a board, with two-thirds vote of the members present, may request the State Ethics Commission conduct a hearing concerning the violation by a board member of a conflict of interest

Questions, concerns, statements

- Sets up a separate ethics system for school boards – why?
- Not sure how some of the provisions would work in conjunction with current procurement laws.

Board compensation

- Specifies a board may create or modify the board salary, travel stipend, or other compensation but the change cannot begin until the terms of two or more members elected at the next general election following the modification.

Questions, concerns, statements

- Board compensation is driven by local laws. Does this bill propose to establish board pay for all boards?

Mandated board training

- Requires elected, re-elected or appointed board members to complete a training program within one year of taking office and any member serving on the board within one year after the effective date of the Act.
- Adds nepotism and conflict of interest to those subjects already required to be a part of the training program.
- By Dec. 31, 2019, the SBE is to adopt a model initial and continuing training program for school board members.

Mandated board training

- School boards adopt a local training program at a regularly scheduled meeting within three months after SBE adoption of model training program.
- SCDE will reimburse a school district or county board of education conducting new board training at the rate of \$80 a member, not to exceed an annual total of \$10,000.
- SCDE must keep a record of board members who complete the training program for at least five years.

Questions, concerns, statements

- The Act states reimbursement for new board training will be provided to school district but does not address costs for “continuing training” cited.
- Does the bill direct the SCDE to be in charge of board training or may other entities provide training?

Consequences of non-compliance, violations

Removal of board members

- Adds local school board members and entire school boards to those (officer of the county or state) subject to the removal from office by the governor.
- In one section of the bill, it states that individual seat vacancies that occur for any reason are filled by the local legislative delegation and in another section it states the governor fills the vacancy.
- Governor may remove a member in a case involving:
 - fraud
 - misappropriation of funds
 - nepotism
 - violation of election or procurement laws

Removal of board members

- Another section states board members who are guilty of the following must be subject to removal of office by the governor:
 - malfeasance
 - misfeasance
 - incompetency
 - absenteeism
 - conflicts of interest
 - misconduct
 - persistent neglect of duty in office
 - incapacity
- Governor directed to inform board member of the specific charges against him and give him an opportunity to be heard.

Removal of board members

- If the entire board is removed, five vacancies are automatically created and
 - Governor appoints three members
 - State Superintendent of Education appoints one member
 - Local legislative delegation appoints one member
- A person appointed to fill a vacant seat serves until the next general election and may run for the seat.
- If only two members remain on a board, the members may take no action that requires a vote until a third member is appointed.

Questions, concerns, statements

- The bill is unclear on the offenses that governor may remove a school board member.
- No definitions for some offenses.
- The bill is unclear on the process used to fill vacancies as a result of gubernatorial removal.
- When a vacancy occurs on a board, local laws drive process for filling the seat and varies from district to district. How will this Act affect those laws?
- The standards for removal of school boards seem to be looser than for any other elected bodies, why?

Training fines, imprisonment

- Annually by July 1, the SBE is to notify the State Ethics Commission of any local school board member who has not complied with mandated training and is in violation of the State Ethics Act and must be assessed a civil penalty as follows:
 - fine of \$100 if the training is not completed
 - fine of \$10 per day for the first 10 days after notice has been given by the SBE of the violation and \$100 for each additional day in which the training is not completed, not to exceed \$5,000
- Trustees may be removed by the governor from office for violating this provision and must have notice and opportunity for a hearing.

Training fines, imprisonment cont.

- After maximum fine has been levied and the required statement or report has not been filed, the person is:
 - fined not more than \$500 or imprisoned not more than 30 days for a first offense conviction
 - fined not less than \$2,500 nor more than \$5,000 or imprisoned not less than a mandatory minimum of 30 days for a second offense conviction
 - fined not more than \$5,000 dollars or imprisoned for not more than one year, or both for a third or subsequent offense conviction
- In addition, State Ethics Commission may impose oral or written warning or reprimand.

Questions, concerns, statements

- Concerned that the threat of fines, imprisonment and removal from the board may be too drastic and chill the desire for serving on a school board, which is primarily a volunteer service.

Accreditation suspensions

- Adds authority for SBE to recommend suspension of board members of schools or districts at risk of losing accreditation for governance reasons.
- SBE conducts a hearing whether to recommend the governor should suspend board members without pay.
- Majority of the board can petition the SBE for a continuance.
- SBE deliberations may not be open to the public and are not subject to the Freedom of Information Act; however testimony and vote on the recommendation must in public.
- If board is suspended, governor appoints temporary replacement members.

Questions, concerns, statements

- SBE deliberations should be made public if requested by the board.
- Governance review during past accreditation processes has not included anyone who has served on a school board. The bill should be amended to include this requirement.
- Governance reviews should include documented actions of members and not hearsay.

Mandated district consolidation

District consolidation

- Directs by August 1, 2023, that districts with less than 1,000 students must be merged with districts in the same county in which they are located.
- Requires the state superintendent to provide a comprehensive plan by August 1, 2021, for the mergers and may include shared services with another district.

District consolidation cont.

District factors to consider include

- fewer than 1,500 students
- in fiscal watch, caution, or emergency status in last five years
- denied accreditation or placed on probation
- schools are rated below average or unsatisfactory
- how countywide districts should be consolidated with contiguous counties
- whether the district has already consolidated services with one or more districts
- whether the districts could be merged to mirror the service areas of their respective technical colleges

Questions, concerns

- Consolidation works best when it is supported locally.
- Consolidation may result in higher costs to equalize programs, salaries and services between the districts.
- Consolidating districts with low tax bases does is not guaranteed to result in more revenue and opportunities for students.

School and District Takeovers

‘Chronically underperforming’ school

- Unsatisfactory rating for three out of four years
- SBE upon recommendation of state superintendent must decide one of the following options:
 1. reconstitute school at end of year (staff fired, state superintendent rehires and hires public or non-profit Education Management Organization (EMO) to assist improvement).
 - If no improvement within 3 years school restarted under the management of a high performing charter management organization or governed by the South Carolina Transformation School District which will receive all federal, state and local funds for students.
 2. School closed and restarted as a state charter school or EMO.
 3. School closed and students transferred to a higher performing school in the district.

Questions, concerns

- Is it three consecutive years or four consecutive years or a total of three years during any points of time?
- Do these provisions apply to charter schools? If not, it needs to be stipulated in the legislation.
- Need a fourth option to would allow the SBE to continue technical assistance to address any changes that may occur in the accountability system (rating formula changes, changes to cut scores for tests) or unforeseen circumstances at the school level.
- Need a provision requiring the SCDE to document all of the technical assistance and support that has been provided.
- There should be a process for the local school board to appeal to another body.

District ‘State of Emergency’

- Majority of students attend schools in schools rated unsatisfactory or below average.
- Districts in “state of emergency” for four consecutive years results in the district and school board being dissolved and giving SBE full authority to do one or combination of the following:
 - Transfer all schools to a higher performing district located the same or different county
 - Turn the schools into charter schools authorized by state charter district or other authorizer
 - Transfer all the schools to EMO
 - Transfer all the schools to South Carolina Transformation District

Concerns, questions

- Drastic options should not be based on rating of Below Average – it is not for school level for the same reason
- Do these provisions apply to State Charter School District and authorizers? If not, it needs to be stipulated in the legislation.
- There must be an appeal process for the local school board.
- Need a fourth option to would allow the SBE to continue technical assistance to address any changes that may occur in the accountability system (rating formula changes, changes to cut scores for tests) or unforeseen circumstances at the school level.
- Need a provision requiring the SCDE to document all of the technical assistance and support that has been provided.

Other

- Students Bill of Rights.
- Another state level committee headed by “Education Tzar.”
- Higher starting teacher salary but elimination of state minimum teacher salary schedule with merit, performance pay raises.
- Eliminate Social Studies but adds K-3 screening assessments and high school numeracy and literacy assessments.
- Mandatory retention of third graders not reading on grade level.
- Deletes the required Education Finance Act (EFA) annual increase by the inflationary adjustment in state funds that a district must receive.

Questions?
Closing Remarks