

South Carolina Career Opportunity and Access for All Act

(H. 3759 & S.419)
AS AMENDED 3/7/2019

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SOUTH CAROLINA SCHOOL BOARDS ASSOCIATION



South Carolina Career Opportunity and Access for All Act

The information that follows

is a summary of the major components of the bill that are of most importance to SCSBA and the amendments made by the House and the Senate so far. This interpretation is based on our staff's understanding of the information currently available.

SECTION 2

Statewide College and Career Readiness Goal

Summary of provisions

Sets a goal that at least 60 percent of all working-age adults will have a post-secondary degree or recognized industry credential before 2030.

House amendments

Added that the goal is consistent with the "Profile of the South Carolina Graduate" of being college and career ready.

Senate amendments

Amended the goal section to state that students should be able to expect supportive parents or guardians who value education.

Questions, positions, talking points

SCSBA supports the Senate version of this section.

SECTION 3

Student Bill of Rights

Summary of provisions

Sets a list of expectations students should be able to expect including, among other things, "feeling mentally, physically and emotionally safe" and "schools boards focused on serving the educational needs of students by acting ethically and hiring dedicated and qualified superintendents and staff."

House amendments

- Amended to add legal disclaimer language to the Student Bill of Rights and Teacher Bill of Rights to prohibit lawsuits against the state and local school districts.
- Amended to direct schools to provide classroom teachers and full-time librarians a 30-minute plan-

ning period free from the instruction and supervision of students.

- Changes both phrases from "Has a right to ..." to "Should be able to expect..."
- Amended to add Teacher Bill of Rights.

Teacher expectations include the following:

- have their professional judgment and discretion included in regard to disciplinary actions or instructional decisions in the classroom made in accordance with school and district policy;
- teach free from fear of frivolous lawsuits;
- take appropriate disciplinary measures, pursuant to federal law, school policy and district policy, to facilitate a learning environment developed

through a culture of respect between teachers and students;

- work in an environment that is conducive to learning;
- have an unencumbered daily planning time that is coordinated with school administration;
- a recognition that the goal of the state should be a competitive salary commensurate with that of other professionals with similar years of experience and educational degrees;
- have the state and district take all necessary steps to ensure that teachers are not burdened with unnecessary paperwork that prevents the fulfillment of the teacher's primary directive to implement effective instruction for their students;
- additional compensation or time for work time above and beyond contracted days; and,
- receive as teachers, under induction contracts, leadership and support from school and district personnel, including the assignment of qualified mentors who commit to helping them become

competent and confident professionals in the classroom and offer support and assistance as needed to meet performance standards and professional expectations.

Senate amendments

Amended to delete this section.

Questions, positions, talking points

SCSBA supports the Senate version of this section.

- The use of the term Bill of Rights is very concerning. It implies there is an actionable right, even though some may have the opinion that it may not legally grant some right that is actionable to a party. This places the state, district board and school in a liable position.
- Additionally, the various terms used are very broad, subjective and undefined.

SECTION 4

Student Representation on the State Board of Education

Summary of provisions

Public school student added to serve as non-voting member for two year term.

House amendments

Amended to add two non-voting members who serve in an advisory capacity and reduced their term from two years to one. The two members are a student and the current S.C. Teacher of the Year.

Senate amendments

Amended to add two non-voting members who serve in an advisory capacity and reduced their term from two years to one. The two members are a student and the current S.C. Teacher of the Year.

Questions, positions, talking points

SCSBA is supportive of the amended House and Senate sections of the bill.

SECTION 5 Zero to Twenty Committee

Summary of provisions

- Creates a Zero to Twenty Committee in the Governor's Office chaired by the Lieutenant Governor with first meeting by August 1, 2020.
- Composed of nine appointed members.
- Employs an executive director (referred to as the "Education Tzar") and appropriate staff.

Purpose is to monitor the state education and workforce pipeline to determine the education and training levels required by the employers of the state and identify and recommend improvements regarding efficiency and cooperation of agencies and programs for the education of citizens ages 0 to 20.

House amendments

- Amended to rename the committee the Special Council on Revitalizing Education or SCORE.
- Amended to require two appointees be a current or retired highly effective teacher.
- Amended to direct the governor to hire an executive director (deleted "Education Tzar") who must possess a background in one of the following

areas: early childhood, K12 education, higher education, business or workforce or economic development.

Senate amendments

- Amended to delete this section of the bill but transferred the reporting requirements of the Zero to Twenty Committee to the State Board of Education (SBE) and the S.C. Department of Education (SCDE). The report provides information regarding K12 and workforce development efforts.

Questions, positions, talking points

SCSBA supports the Senate version of this section.

- There are already several state-level education committees that study early childhood, K12 to college and workforce, including the Education Economic Development Act (EEDA) Coordinating Council, Education Oversight Committee (EOC) and the Workforce Development Council. We would support merging all of these committees into one and making the one committee advisory in nature.

SECTIONS 7, 8, 9 State Testing

Summary of provisions

Deletes the requirement for social studies assessments in grades five and seven.

House amendments

- Amended to eliminate the high school U.S. History end-of-course exam.
- Amends to direct the SCDE to embed grade level social studies test questions in the S.C. Ready reading and writing assessments.

Senate amendments

- Amended to eliminate social studies testing in grades 3 – 8.

Questions, positions, talking points

SCSBA supports the House version of this section in the bill.

SECTIONS 11, 12

Palmetto Fellows Scholarship and Life Scholarship

Summary of provisions

Requires students to earn one credit in mathematics or computer science and one unit of credit in English/language arts during their senior year of high school in order to qualify for a scholarship beginning in 2024. The courses may be dual credit courses.

House amendments

- Amended Palmetto Fellows Scholarship eligibility requirements to add traditional college credit earned as an option of meeting senior year new course requirements and adds a score of 31 on the ACT.
- Amended LIFE Scholarship eligibility requirements to add traditional college credit earned as an option of meeting senior year new course requirements and adds a score of 22 on the ACT.

Senate amendments

The Senate has not taken up this section yet.

Questions, positions, talking points

SCSBA is concerned about the cost of providing additional courses for students in the 12th grade who have already completed the required computer science, math and English/language arts course requirements for graduation.

The fiscal impact statement for H.3759 states the provision could increase General Fund expenses by \$1.1 million, assuming students take both courses for dual enrollment, beginning in FY 2024-25.

SECTION 32

Transfer of Adult Education and Local Career and Technology Centers to Technical Colleges

Summary of provisions

Directs the State Board for Technical and Comprehensive Education and the SBE to provide a report to the General Assembly by July 1, 2021, on the following:

- a timeline for the complete transfer of the adult education programs from the SBE to the State Board for Technical and Comprehensive Education; and,
- a timeline for moving the operation of all school district career and technology centers to the technical colleges and how to best use the centers and technical college facilities to provide improved and updated career and technical education.

House amendments

- Amended the deadline for the report to July 1, 2020.
- Amended to delete the requirement for a plan to move career and technology centers to technical colleges.
- Amended another section of the bill prohibiting technical colleges from providing remedial courses for new students to allowing those courses but charging the cost of those courses to the high schools that the students graduated from.

Senate amendments

The Senate has not taken up this section yet.

Questions, positions, talking points

- SCSBA does not support this section of the bill or the provision in another section of the bill requir-

ing high schools to pay for remediation courses at technical colleges for their graduates up to age 21. High schools should not be held accountable for students who have been out of school for years or for students who are not prepared to take a college entrance exam.

- Many district career and technology centers have partnerships with local technical colleges and are providing a great service to their students and community industries.
- Career and technology centers and adult education facilities were likely built with local funds and

are owned by the school districts.

- One section of the bill removes technical colleges from providing remediation classes to new students and requires local districts to provide the remediation. However, adult education programs could help with remediation if they remain with the local school districts. On one hand, the state directs the local districts to provide remediation, but on the other hand, it removes the program that could provide the remediation for students who have already graduated high school.

SECTION 44

Increasing Accountability for Below Average and Unsatisfactory Schools

Summary of provisions

Creation of State Transformation District

Directs the creation of an organizational unit within the SCDE for the purpose of providing the operation and management of underperforming schools.

- The state superintendent may contract with one or more individuals, governmental entities or nonprofit entities to manage the daily operations of any or all schools placed in the Transformation District to include providing direct services to students.
- Specifies that all support services, the school building and property must be transferred to the Transformation District.
- The Transformation District can access additional facilities (ex. performing hall, alternative school, etc.) that are typically available to the school, its students, faculty and staff.
- The Transformation District is responsible for routine maintenance and repairs needed to maintain the facilities and property.

School turnaround plans

- Renames the school renewal plan the "school turnaround plan" and lists the components of the plan.
- The SCDE is to review and approve school plans and post approved plans on its website. Plans

must be updated annually on implementation and measures of impact.

Technical assistance

The SCDE is required to do the following:

- Identify priority schools.
- Assist low-performing schools and districts in designing and implementing strategies and measurements in turnaround plans and in brokering technical assistance personnel.
- Conduct a needs assessment using an External Review Team in the first year of a designation and every third year thereafter. Team reports will be posted on the department's website.
- Review professional growth plans for principals and teachers and amend to reflect the needs of the turnaround plan and establish individual improvement criteria on the performance dimensions for the next evaluation.
- Stipulate that principals or superintendents may be subject to receiving a public reprimand by the SBE for failure to provide required evaluation information regarding the use of technical assistance funds.
- Establish state mechanisms to promote successful programs, provide information and technical assistance in understanding state policies and best practice and establish a process for monitor-

ing information for accountability and assessing improvement efforts.

- Implement tiered technical assistance that is determined by factors to include length of time schools have been underperforming, annual achievement ratings, annual growth ratings, school or district accreditation and financial risk status.
- Specify that tiered assistance may be in the form of a per student allocation; placement of principal mentors, transformation coaches and instructional leaders; replacement of principals; reconstitution of a school; or declaration of a state of emergency.
- Stipulate that technical assistance funds may not be flexed to another funding category.

School directives

- Require local boards to create a stakeholder group, address social service and health needs of students and families, improve or expand child welfare services, improve workforce development services, address achievement gaps and develop a financial plan for the school.
- Require the school to offer an orientation class for parents to include the value of education, available academic assistance programs, student discipline, school policies and report card information.

(NOTE: See first bullet under House Amendments on the following page.)

- Require the school to conduct a parent orientation class that must meet:
 - o at a time when the majority of parents are able to attend
 - o in a community or workplace setting to better meet the needs of parents with transportation difficulties or scheduling conflicts.

Chronically underperforming schools

- Designation added to school report cards when a school is rated unsatisfactory for three out of four years.

SCDE directives

- Reconstitute the school (fire and hire staff) and contract with a public or nonprofit private entity to assist in operations and oversee administration. If the school does not improve within three years,

it must be restarted under the management of a high-performing charter management organization or be governed by the S.C. Transformation School District.

(NOTE: See second bullet under House Amendments on the following page.)

- Close the school and restart it under the management of a charter school authorizer or nonprofit educational management organization who may terminate any and all employees of the school and hire employees at its discretion.
- Close the school and transfer students to higher-performing schools in the district.
- Require the SCDE, in making decisions regarding chronically underperforming schools, to receive input from the local board as to the above action that is in the best interests of the students. The SBE holds the final decision-making authority.

Increasing accountability for school districts.

- Require the state superintendent to declare a district to be in a 'state of emergency' for districts in which a majority of students attend schools with a below average or unsatisfactory rating. The state of emergency declaration is to be published on school report cards.
- An external review committee is to study district education programs, financial management, all facets of school and district operations and assist in designing an improvement plan, which is to be reviewed annually over the next four years.

District takeover

The SBE is required to do one of the following if the district is identified as being in a state of emergency for four consecutive school years:

- Dissolve the school board and transfer its powers, duties and responsibilities to the entity charged with the operation of schools.
- Transfer schools in the district into another, higher performing district which may be located in the same county or in another county.
- Close and restart the schools in the district under the management of an existing charter school authorizer or a nonprofit educational management organization or move the schools to the S.C. Transformation School District.

House amendments

- Amended to require information on all after school, extracurricular, summer learning or other enrichment programs offered by the Below Average or Unsatisfactory rated schools as subjects that must be presented at the required parent orientation program.
- Amended to clarify that the state superintendent has the authority to make all personnel decisions for the reconstituted school identified as chronically underperforming.

Senate amendments

The Senate has not taken up this section yet.

Questions, positions, talking points

SCSBA is opposed to state takeovers of schools and school districts.

We oppose the House version of this section in its current form.

We are advocating for the following:

- Allowing the state superintendent to adhere to the technical assistance and intervention accountability plan that has been approved by the U.S. Department of Education as already required by the Every Student Succeeds Act (ESSA). It provides tiered technical assistance to underper-

forming schools. This bill would establish different assistance and intervention steps from the state plan already in place, which is contrary to legislation passed by the General Assembly in the past few years directing the SBE and the EOC to develop a single accountability system because of the confusion of having two accountability systems.

- We oppose the use of private education management organizations and a Transformation District to operate under-performing schools. This is a move towards privatization and represents an abdication by the State of its responsibility to improve under-performing schools. It also results in the loss of representation (voice) for local taxpayers, parents, students, etc. of their local schools when their schools are turned over to a private company. There is no school board that is accountable to the local taxpayers.
- It is questionable how the state can turn over locally-owned school facilities (paid for by local taxes) to a private organization or to the State.
- The authority for these drastic measures is given to one office. There is no ability or authority for local boards to appeal. This is way too much power to give to one person with no checks or balances.

SECTION 45

District Consolidation

Summary of provisions

Stipulates that before August 1, 2023, school districts with less than 1,000 students must be merged with a district in the same county in which they are located.

- The state superintendent is directed to provide a comprehensive plan regarding the merging of school districts, or an agreement to enter into shared services with another district, by August 1, 2021.
- Considerations included in the decision to consolidate include financial status, school rating and geographical location.

House amendments

Amended to add criteria for consolidating school districts with 1,000 or less students to include the requirement that more than 50 percent of students attend schools rated as below average or unsatisfactory.

Senate amendments

A Senate subcommittee is currently deliberating a separate consolidation bill (S.203). If that bill passes the Senate, it will be inserted into this section of the bill.

- Currently, that bill provides for the consolidation of school districts with 1,500 students or less in Tier IV counties (Bamberg One, Bamberg Two,

Barnwell 19, Barnwell 29, Clarendon One, Clarendon Three, Hampton Two) within their county by August 1, 2022.

- A state consolidation incentive fund is to be established to support costs directly related to the consolidation, which may include, but are not limited to, salary adjustments, facilities, debt mitigation, millage rate adjustments, transportation, technology and other factors which the district demonstrates are necessary to complete consolidation. If no funds are appropriated by the General Assembly to consolidation efforts, the SCDE is directed to submit a report to the General Assembly by January 2020 outlining the districts that would be impacted by consolidation and providing information on shared services, the district efficiency reviews and other information that the Department considers important related to school district consolidation.
- On or before August 1, 2020, eligible school districts must submit to the SCDE for review and approval a preliminary plan and timeline for pursuing consolidation, including the use of the consolidation funds.
- Once the plan is approved, it must be given to the local legislative delegation, which is charged to enact consolidation legislation to include the

composition of the consolidated board, transition procedures and disposition and/or assumption of district assets and liabilities.

- Prior to the consolidation, districts are prohibited from hiring new personnel, raising salaries above the state mandated raises, spending existing reserves or incurring any bond indebtedness.

Questions, positions, talking points

SCSBA is opposed to the House version of this section.

We are generally supportive of the Senate version currently under consideration but request amending the bill further to:

- allow local boards to seek a referendum on the consolidation question;
- provide a waiver provision for school districts that can show they are operating effectively and efficiently; and,
- add clarification language that delays any consolidation if funding is not provided by the state for the consolidation incentive fund.

SECTIONS 49 - 53

School Board Code of Ethics, Removal of Board Members, Accreditation, Suspension of Board Members, Mandated Training, Nepotism, Conflicts of Interest, Board Compensation

Summary of provisions

Code of Ethics

- Directs the 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 boards are to submit policies and any revisions to the 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 the ethics and nepotism policy and annually disclose compliance with

training, ethics, the nepotism policy and conflict of interest provisions.

Removal of board members

- Adds local school board members and entire school boards to those (officer of the county or state) subject to 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.
- The governor may remove a member in a case involving fraud, misappropriation of funds, nepotism

or violations of election or procurement laws.

- Another section states board members who are guilty of the following must be subject to removal from office by the governor:
 - malfeasance
 - misfeasance
 - incompetency
 - absenteeism
 - conflicts of interest
 - misconduct
 - persistent neglect of duty in office
 - incapacity
- The governor is directed to inform a board member of the specific charges against him and give him an opportunity to be heard.
- If the entire board is removed, five vacancies are automatically created, and appointees will be selected as follows:
 - The governor appoints three members.
 - The state superintendent of education appoints one member.
 - The 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 at the next election.
- If only two members remain on a board, the members may take no action that requires a vote until a third member is appointed.

Accreditation Suspension of Board Members

- The SBE is authorized to recommend suspension of board members of schools or districts at risk of losing accreditation for governance reasons.
- The SBE may conduct a hearing on whether to recommend that the governor should suspend board members without pay.
- The 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, the testimony and vote on the recommendation must in public.
- If a board is suspended, the governor appoints temporary replacement members.

Mandated 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 December 31, 2019, the SBE is to adopt a model initial and continuing training program for school board members.
- School boards are to adopt a local training program at a regularly scheduled meeting within three months after SBE adoption of a model training program.
- The 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.
- The SCDE must keep a record of board members who complete the training program for at least five years.
- The SBE must notify the State Ethics Commission of any school board member who has not completed mandated training.
- Stipulates fines (to include imprisonment) to be imposed if training is not completed within specified times.
- Trustees may be removed from office by the governor for violating training provisions.

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 December 31, 2020; however, the provision may be waived by the SBE if the full-time enrollment of the district is fewer than 3,000 students and if a public hearing is conducted.
- Individuals wishing to run for the board of a district employing a family member must seek a waiver and participate in a public hearing.

Conflicts of Interest

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

- using his position to secure unwarranted privileges, advantages or employment for himself, family members or others
- acting on any matter involving a business that he or his family has an economic interest in
- soliciting or accepting a gift, favor, loan, political contribution, service, promise of future employment or other thing of value in exchange for influencing board decisions
- using his official position or his knowledge of information not generally available to the public for financial gain
- representing 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
- prohibited from inquiring about information on behalf of a constituent
- disclosing or discussing 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
- serving as an officer of any organization that sells goods or services to the district, excluding not-for-profit organizations
- unduly interfering 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 a 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

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.

House amendments

Amended to delete the possible imprisonment sentence for failure to complete mandated training.

Senate amendments

The Senate amended to delete most of the sections except the following provisions:

- Amended the definition of a school board member to include boards of charter schools and the state charter school district.
- The SBE is to adopt a model code of ethics for local school board members and include appropriate consequences for violations.
- Directs local school boards to adopt model ethics policies.
- Prohibits local boards from adopting a code of ethics that prevents their members from discussing freely the policies and actions of the board outside of the board meeting and stipulates that this does not preclude a local board from adopting policies that prohibit certain disclosures allowed by law.
- Retains a new and ongoing training program but does not require mandatory completion with fines and imprisonment.

Questions, positions, talking points

SCSBA supports the current Senate version of these sections.

- Most school district boards already have code of ethics and conflicts of interest policies that adhere to state ethics and elections laws. Why would we want school boards to operate on more increased requirements than any other public official?
- Violations that currently exist may include public censure, reprimand.
- The bill includes different sections that provide differing offenses for removing school board members by the governor and no definitions are provided 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 the process for filling the seat and vary from district to district. How will this Act affect those laws?

Other provisions of interest

Summary of provision

- Increases starting teacher salary but elimination of state minimum teacher salary schedule with merit, performance pay raises.

House amendments

- Amended to reinsert state minimum teacher salary schedule. Deleted pay bands, merit pay.

Senate amendments

The Senate has not taken up these provisions yet.

Questions, positions, talking points

SCSBA believes in raising teacher pay to the national average for teacher salaries and establishing a salary structure that would be appropriate considering differentiated responsibilities so as to compensate teacher leaders in relation to skills and performance.

Summary of provision

- Mandatory retention of third graders not reading on grade level in Read to Succeed Program.

House amendments

- Deleted mandatory retention.

Senate amendments

The Senate has not taken up these provisions yet.

Questions, positions, talking points

SCSBA believes more resources and focus should be given to children in 4K to second grade who are struggling with reading to include screenings, eye screenings and increased instructional time (summer reading camps).

Summary of provision

- Deletes the required Education Finance Act (EFA) annual increase by the inflationary adjustment in state funds that a district must receive.

House amendments

- Reinserted EFA inflation factor language.

Senate amendments

The Senate has not taken up these provisions yet.

Questions, positions, talking points

SCSBA supports leaving in the EFA language until the state has put into place a new education funding system.

Summary of provision

- Allows children of teachers with at least five years of experience who are employed in schools that have an absolute rating of unsatisfactory for at least three of the previous four years to attend state college tuition free.

House amendments

- Amended to allow children to continue attending tuition free if the school improves.

Senate amendments

The Senate has not taken up these provisions yet.

Questions, positions, talking points

SCSBA is supportive of any effective measures to recruit and retain teachers.