

Champion
Student Achievement

South Carolina School Boards Association
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Legislative Update

inside

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K12 funding for 2016-2017

Background: The Proviso Subcommittee of the House Ways and Means Committee on Tuesday approved the K12 education subcommittee **budget provisos** to include changes and additions. The Full Ways and Means Committee is scheduled to take up the budget next week. The Education Finance Act (EFA) proviso was amended to:

- increase the base student cost (BSC) from the current year funding of \$2,220 to \$2,370, or an average increase of \$150 per student;
- add Dual Credit Enrollment of 0.15 to the pupil classification weightings and to require students enrolled for dual credit to be identified in Power-School as taking a course that leads to both high school and post-secondary credits and districts to assist students in accessing applicable lottery tuition assistance;
- change the definition of students in poverty used in the pupil classification weightings from students eligible for free/reduced lunch and/or Medicaid to the U.S. Department of Agriculture community eligibility criteria, and include students eligible for Medicaid, classified as Migrant and classified as Homeless and direct the Revenue and Fiscal Affairs Office to also use this definition;
- delete the requirement that the Revenue and Fiscal Affairs Office continue to use 2013-2014 school year counts to determine poverty funding for the add-on weighting and delete the reporting requirement on the effects of USDA community certification.

The technical assistance to low performing schools funding proviso was greatly amended as follows:

- Directs that funds be used to provide "intensive support" to schools and districts with the lowest percentages of students meeting state standards on the most recent state test or with the lowest high school graduation rates.
- Directs the SC Department of Education (SCDE) to create a system of tiers of technical assistance for low-performing schools and districts and require schools and districts to be placed within the tiered framework by December 15.
- Requires a diagnostic review of low performing schools and for the SCDE to monitor progress on implementation of amended plans and report

their findings to the local legislative delegation and the governor.

- Authorizes the state superintendent to declare a state of emergency in a school or district if it's accreditation status is probation or denied, if a majority of the schools fail to show improvement on the state accountability system, classified as being in "high risk" status financially, or for financial mismanagement resulting in a deficit. The state of emergency declaration allows the state superintendent to take over the management of the school or district which may include consolidation with another district, charter management, public/private management, or contracting with an educational management organization or another school district.

Other provisos of note:

- Provide a 2 ½ percent cost of living increase for the full day 4K program.
- A new proviso to direct the SCDE to report on the costs associated with moving the department out of the Rutledge building to the Chairmen of the Senate Finance and House Ways and Means Committees and to the Department of Administration by September 1, 2016.
- A new proviso to require the SCDE to use Technology Technical Assistance funds to increase the capacity of the original trial and plaintiff school districts in the Abbeville lawsuit and direct that the funds be used to procure appropriate technology devices and infrastructure in accordance with technology review team recommendations to build the capacity to offer online testing and increased access.
- A new proviso directing the SCDE to procure an IT Academy for public schools statewide and direct that the academy offer certification opportunities for educators to receive teacher certification exams, for middle school students to receive software training and for high school students to receive programming credentials.
 - Add "non-certified" public school teachers, "career specialists" and individuals employed by a publicly funded full-day 4K classroom to those individuals eligible to receive the teacher supply reimbursement of up to \$275 each school year to offset the expenses they have incurred for teaching supplies and materials.

Remaining budget deliberations schedule

- February 22 – 25: Full Ways and Means Committee budget deliberations
- March 1 – 7: Appropriations bill printed and placed on the desks
- March 21 – 24: House floor budget debate
- March 28 – April 1: House on furlough; tentative date for Senate furlough
- April 4 – 8: House on furlough

Position statement: SCSBA supports legislation to reform the state's education funding structure. Any revision should be based upon specific analysis and recommendations on (1) the current tax structure and the state's taxing policy, (2) the current education funding formulas and their ability to equalize educational opportunities statewide, and (3) a realistic means of computing the base student cost, which is aligned with state-imposed student performance standards and expectations. Recommendations for reforming the method of fully funding public education in South Carolina must do the following:

- expand local district revenue-raising authority;
- generate revenue that is adequate, stable and recurring;
- ensure equitable and timely distribution, to include direct distribution from the state to a district;
- provide adequate funding for other operational needs such as transportation and fringe;
- include state-driven initiatives to ensure that every public school student has the opportunity to learn in permanent school facilities that are safe, structurally sound and conducive to a good learning environment; and,
- ensure that districts are held harmless from receiving less money through a new funding plan.

Current year funding issue

Background: The K12 subcommittee of the House Ways and Means Committee has completed its proviso work, but 2016-2017 budget amounts, including the Education Finance Act base student cost, have not been discussed or provided. Budget meetings are scheduled to continue through February 25.

As the Ways and Means subcommittee continues its work on next year's appropriations bill, many school

districts learned in recent weeks that state funding projected for the current year may fall shorter than expected. It is not unusual for differences between projected and actual funding, however, to occur.

The SCDE notified superintendents and school business officials that higher than projected student enrollments and students qualifying as in need of academic assistance has resulted in a lower base student cost (BSC) from \$2,220 to \$2,190 or an average reduction of \$30 per student. This amount may still need to be adjusted depending on data after the 135-day enrollment numbers are compiled.

SCSBA, the SC Association of School Administrators (SCASA) and the SC Association of School Business Officials (SCASBO) are still trying to determine what the reduction will mean to school districts and what appropriate actions may be taken at the state level.

In initial estimates, the BSC was to be capped at \$2,172 per student, or an average reduction of \$48 per student. Some districts were estimating a reduction of more than \$1 million to more than \$200,000 in smaller districts.

The reduction is the result of two factors. The estimate, upon which the EFA request for the current year was based, was 966,029 students. Enrollment reported by school districts for the 45th day was 981,363 and does not include students in the state's special schools/districts and the state charter school district, which also receive EFA funding.

According to the SCDE, there were 17 districts that had a 250 student or more increase in weighted pupil units (WPU) at the 45-day mark.

In addition, there are higher numbers of students who scored in the lowest category on grades 3-8 on the state's standardized test, ACT Aspire, in the spring of 2015 and qualifying them for academic assistance weighting added to the EFA two years ago. However, after the SCDE correlated the scores against the former PASS test for Not Met 1, the number of students was reduced.

The SCDE is working with the Department of Revenue to adjust estimates for next year, but it is still unclear what, if any, actions will be taken to address any shortfalls for this year.

Position statement: SCSBA is advocating the following three changes to the EFA for 2016-2017 to help address future shortfalls in the BSC. They are as follows:

- The General Assembly should base any increases

in the BSC for next year's budget on the \$2,220 budgeted amount rather than the actual, lower amount to make up the difference in this year's shortfall.

- The General Assembly should allocate at least \$10 million in the EFA contingency fund which is the amount provided when the fund was established but has since been depleted. Contingency funds are used to fund shortfalls in the BSC from what was projected versus actual amounts.
- The General Assembly should direct the Department of Revenue and the SC Department of Education to study the process used to estimate the BSC to determine if changes should be made.

Earlier school start date

Background: A bill that would move the state-mandated school start date back one week (**S.1014**) is moving through the Senate.

The bill changes the start date from no later than the third Monday in August to no later than the second week in August beginning with the 2016-2017 school year. It also changes the deadline for notifying teachers of their tentative work assignment for the ensuing school year from August 15 to August 8.

Position statement: SCSBA believes that state law regarding when public schools may start the school year should be changed to give districts the flexibility of setting their own start date.

Abbeville bills sent to the House floor

Background: A package of bills filed in the House as a response to the ruling in the Abbeville education funding lawsuit was swiftly taken up by the House education subcommittee and full committee this past week. The bills, some of which were amended, will likely be taken up by the full House when representatives return from furlough the week of February 22. In addition, the committee voted to make all of the bills a committee bill, which means they had to be redrafted so that the only sponsor showing is the committee's name and given new numbers. The committee adjourned debate, which in essence stops the bill, on one of the bills stipulating that beginning with the 2017-2018 school year, all school districts must be

accredited by AdvanceEd, formerly the Southern Association of Colleges and Schools (H. 4778). The bills approved by the committee are as follows:

- **H.4941** (originally was H.4777), directs the SC Department of Education (SCDE) to develop and adopting a statewide program for identifying fiscal practices and budgetary conditions that could compromise the fiscal integrity of a school district and to take appropriate actions. It establishes three escalating levels of fiscal and budgetary concern including "fiscal watch," "fiscal caution" and "fiscal emergency." *SCSBA testified that while the intent of the bill to assist financially struggling districts is good, the bill provides a lot of authority to the SCDE and does not prohibit overreach. After some negotiations, the committee amended the bill to require the SCDE to work with school business officials and superintendents to develop the program to ensure safeguards are provided to local school districts.*
- **H.4940** (formerly H.4779), outlines the duties, functions, and responsibilities of the Office of Transformation within the SCDE.
- **H.4939** (formerly H.4780), establishes a committee to review all state education laws and report to the General Assembly those that are obsolete or no longer applicable; provides that the SCDE must develop a system for providing services and technical assistance for school districts on a regional basis to include academic assistance and assistance with finances and to require the Superintendent of Education to report the design of the system to the General Assembly no later than December 31, 2016, and every year thereafter report the progress of the system; and requires the SCDE to monitor the operations of school boards in underperforming districts to determine if they are operating efficiently and effectively and to monitor the professional development of teachers, staff, and administrators in districts it determines are underperforming to ascertain what improvements and changes are necessary.
- **H.4937** (formerly H.4781), establishes the South Carolina Education and Economic Development Coordinating Council and provides for its membership, duties, and functions.
- **H.4938** (formerly H.4782, requires the SCDE, with the assistance of other entities, to survey college students to inquire if they have considered teach-

ing in rural, economically challenged school districts and what incentives would get them to do so.

- **H.4936** (formerly H.4783), provides for educational goals for all South Carolina high school graduates as college and career ready and the standards and areas of learning by which these goals are measured.

Another bill, the Education Facility Authority Act (**H.4776**), has been assigned to the K12 subcommittee of the House Ways and Means Committee and will likely be considered during the budget deliberations. The bill would require a comprehensive review of facility needs in the plaintiff districts and other school districts with a low tax base and establish a state school infrastructure bank that provides grants for school construction and/or renovations.

Private school tax credits program moving in House

Background: A bill to put into permanent law the exceptional needs tuition tax credit program (H.4537) was swiftly taken up and passed out of the House Ways and Means Committee this past week and may be taken up by the full House the week of February 22.

The statewide program has been operating for the past three years through a budget proviso. The statewide program provides individual and corporate income tax credits for contributions to organizations that award scholarships to exceptional needs students to attend private and parochial schools. A second refundable tax credit was added in the current year's budget that applies to individual income tax for tuition and expenses for exceptional needs children attending private school within the taxpayer's custody or care. Cumulatively, the two credits may not exceed a total of \$12 million.

In addition to the bill, the current proviso was adopted for next year's budget (Proviso 1.86) by the Proviso Subcommittee of the House Ways and Means Committee. The proviso adoption ensures the program continues next year if passage of the bill does not occur this session.

Position statement: SCSBA testified its opposition to the program and communicated the membership's long-standing position of opposing the use of public funds directly or indirectly to subsidize private and/

or parochial schools. SCSBA, however, stated that if it is the will of the General Assembly to continue operating the program, the program should be amended and offered several changes, which the subcommittee and full committee did not take up. The changes SCSBA requested are as follows:

- Add "religion" and "prior academic performance" as factors for non-discrimination in the definition of eligible independent schools. Currently the bill states the schools will not discriminate against race, color and national origin.
- Require eligible independent schools to provide special needs programs and services to students receiving scholarships or direct tax credit refunds as required in their Individualized Education Plan (IEP).
- Direct scholarship granting organizations and the individual refundable income tax credit be awarded to students who, among other things currently listed in the bill, do not receive special needs services from the State or school district of their legal residence.
- Add "income tax fraud conviction" as another criteria for prohibiting anyone from serving on the staff or serving as a member of the governing board of a scholarship granting organization.
- Require independent schools to publish test scores as required of public schools and require those schools whose students receive scholarships and/or refundable tax credits to provide a complete audit every five years.

Appointed vs. elected state superintendent

The House had enough votes (2/3rds) this past week to pass a resolution (H.3041) seeking voter approval to amend the state constitution by changing the state superintendent of education from being an elected position to one appointed by the governor. The resolution was amended to state that upon the expiration of the term of the Superintendent of Education serving in office on January 10, 2019, and after the date of the ratification of this provision, the Superintendent of Education must be appointed by the Governor, upon the advice and consent of the Senate. It also directs the General Assembly to provide by law for the duties, compensation, and quali-

fications for office, and the procedures by which the appointment is made.

The companion resolution in the Senate has passed out of the committee but is stalled on the Senate floor. After passing out of committee, several senators placed minority reports on the bill, which in general, stops the bill from being considered.

Position statement: SCSBA believes that a statewide constitutional referendum should be conducted to determine if the office of the state superintendent of education should remain an elected position or should become one that is appointed by the governor with the advice and consent of the Senate. If appointed, the state superintendent of education should meet certain qualifications outlined in law.

Major FOIA changes on the way

Background: A bill that will make major changes to the state Freedom of Information Act (FOIA) (**H.3191**) is on track for approval by the Senate Judiciary Committee. The bill, which passed the House in 2015, was put on hold late in the session last year when the Senate Judiciary Subcommittee directed "all parties" to work out their differences and bring back recommended changes that most would support. SCSBA, along with the several organizations representing cities, counties, law enforcement and others, worked with the SC Press Association for the past few months to work out differences.

In general, the bill as amended would do the following:

- creates a FOIA office within the Administrative Law Court to review and rule on FOIA challenges that can be brought by the requestor or the public body
- decreases the time a public body must respond to its receipt of a FOIA request for information less than two years old and notify the person of its decision to fulfill or deny the request and reason for it from 15 days to 10 days, and has up to 20 days to respond for information two years old or older
- requires that if the request is granted, records that are less than two years old must be furnished or made available for inspection or copying no later than 30 calendar days from the date on which the final determination was provided, or up to 35

calendar days for information two years old or older

- prohibits fulfillment fees from exceeding the actual cost of the search, retrieval, and redaction of records, and fee calculations must utilize the hourly salary of the lowest paid employee qualified to perform the request
- allows public bodies to develop reasonable fee schedules to be posted online
- requires copying fees not exceed prevailing commercial rates
- allows public bodies to require a deposit, not to exceed 25 percent of the total cost for reproduction of the records, before beginning work
- eliminates the rarely-utilized misdemeanor penalty for FOIA violations of unfulfilled FOIA requests and instead may be pursued through civil action

Position statement: SCSBA is generally supportive of the bill but remains concerned about reduced time for response and fulfillment of information.