



# 2016

## legislative update

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# What happened?

## K12 FUNDING

### 2017 General Appropriations Act House bill 5001

K12 education received more than a \$325 million increase in funding for programs and services at the state and local levels. Of the increase, \$217.5 million was used to increase the base student cost (BSC) by \$130 to arrive at an estimated \$2,350 per pupil. Other highlights of the budget for K12 are as follows:

- A 2% percent pay raise for all teachers, a step increase for eligible teachers and an increase in the teacher step levels from 22 to 23 years. Of the 2% pay increase, one percent is to be funded through the BSC increase and the remaining one percent through a \$23 million increase in Education Improvement Act (EIA) funding.
- \$19.2 million to provide a 3.25 percent state pay increase for school bus drivers.
- \$23 million, including \$2 million in nonrecurring funds, for school buses.
- \$1.3 million for teacher supply reimbursement (up to \$275 per teacher, eligible teachers expanded to media specialists, guidance counselors, 4K teachers).
- \$1.5 million for a statewide school facilities assessment.
- \$3.1 million for an efficiency, facilities use and energy management study in the Abbeville districts.
- \$9 million for teacher recruitment and retention in plaintiff school districts and districts with a poverty index of 80 percent or higher.
- \$8.2 million for rural teacher initiative.
- \$10 million for Education and Economic Development Act (EEDA) counselors and career specialists.
- \$3.5 million in hazardous transportation routes.
- \$29.3 million for technology initiatives.
- \$500,000 for adult education.

## LEGISLATIVE RESPONSE TO ABBEVILLE RULING

### College and Career-Ready Graduates House bill 4936

The principles outlined in the *Profile of the South Carolina Graduate* published by the South Carolina Association of School Administrators (SCASA) and adopted by numerous educational organizations, including SCSBA is now a part of state law. The Act establishes the principles as the measurement standard and achievement goal for all high school graduates to ensure that

they are college and career ready. It directs the State to make a reasonable and concerted effort to ensure that graduates have world class knowledge based on rigorous standards in language arts and mathematics for college and career readiness. Students should have the opportunity to learn one of a number of foreign languages, and have offerings in science, technology, engineering,

mathematics, arts, and social sciences that afford them the knowledge needed to be successful. Further, students also must be offered the ability to obtain world class skills such as:

- creativity and innovation
- critical thinking and problem solving
- collaboration and teamwork
- communication, information, media, and technology
- how to learn

Students must also be offered reasonable exposure, examples, and information on the state's vision of life and career characteristics such as:

- integrity
- self-direction
- global perspective
- perseverance
- work ethic
- interpersonal skills

### SCDE Office of Transformation House bill 4940

The General Assembly approved the appropriation of \$2.5 million for the establishment of the Office of Transformation within the South Carolina Department of Education (SCDE) to assist underperforming schools and districts. Underperforming schools and districts are identified by a rating of "below average" or "at risk" on the most recent annual school report card, with having the lowest percentages of students meeting state standards on state assessments, or with the lowest high school graduation rates.

Assistance includes, but is not limited to, the following:

- implementation of the external review team process
- diagnostic review of operations and academics that must include a leadership capacity report

- review of five systems consisting of mission/vision, governance, teaching and learning, resource allocation, and continuous improvement practices
- analysis of student achievement data
- analysis of culture and climate including stakeholder surveys

### Education Laws Review and Assistance House bill 4939

The General Assembly approved the creation of a committee to review and, in general, clean up the state education laws. The committee, which is made up of appointees by the State Superintendent of Education, the Executive Director of the Education Oversight Committee (EOC), the Chairman of the House Education and Public Works Committee, and the Chairman of the Senate Education Committee, is to annually submit a report by December 31, 2016 to the General Assembly that identifies laws that are obsolete or no longer applicable and make recommendations for improvements and changes.

In addition, with the assistance of the Revenue and Fiscal Affairs Office, the committee report must identify all federal education statutes and regulations that the state is required to comply with and the total cost to the state to comply.

Further, the SCDE is directed to develop a system for providing academic and financial assistance services to school districts on a regional basis. The state superintendent is to report the design of the system to the General Assembly no later than December 31, 2016, and annually afterwards, the progress of the system and data documenting the impact of assistance on student academic achievement and high school graduation rates.

Finally, the SCDE is authorized to monitor the professional development of teachers, staff, and administrators in underperforming

districts and determine improvements and changes that may be needed. The SCDE will also monitor the operations of school boards in underperforming districts in order to determine if they are operating efficiently and effectively.

## Teacher Incentives Survey

### House bill 4938

The General Assembly directed the SCDE and the Center for Educator Recruitment, Retention, and Advancement (CERRA), working in collaboration with the Commission on Higher Education (CHE), to survey students enrolled in the state's colleges of education to inquire whether they have ever considered teaching in a rural and economically challenged district. Students must be asked what incentives, if any, would cause them to move to and work in such a district. SCDE and CERRA may include additional survey questions and report survey results to the General Assembly by December 1, 2016. Also, SCDE, CERRA, and CHE are to explore a practical and effective way to obtain similar information from students in other college programs as a means of planning and promoting teaching career information and employment options. A report summarizing the recommendations for this survey must be submitted to the General Assembly by

February 1, 2017, to include whether the focus should be on students in the state's two-year as well as four-year institutions, and whether improvements facilitating transfer and articulation into teacher education programs could enhance recruitment into the teaching profession.

## Funding

### 2017 General Appropriations Act

In addition to legislation, the General Assembly allocated funds directed at plaintiff school districts as follows:

- \$4 million for technical assistance
- \$1.5 million in proviso directing the SCDE to conduct facilities needs assessments and reviews in school districts beginning with districts with low tax base
- \$3.1 million in proviso directing SCDE to conduct efficiency studies focused on fiscal management in school districts beginning with high poverty school districts
- \$9.1 million for recruiting and retaining teachers in plaintiff districts and districts with an 80% or higher poverty index
- \$200,000 for two customized STEM labs serving students in grades 6 - 8
- \$16.8 million for technology technical assistance

## ENACTED LEGISLATION OF INTEREST FOR SCHOOL BOARDS

### General Assembly Earlier Adjournment

#### Senate bill 267

Years of talk about shortening the regular annual legislative session became a reality as lawmakers agreed to move adjournment (*sine die*) from no later than 5 p.m. on the first Thursday in June to no later than 5 p.m. on the second Thursday in May. The

adjournment, however, can be extended under certain conditions as follows:

- If the House fails to give a third reading to the annual appropriations bill by March 31, the session can be extended by the equivalent number of days it takes the House to give third reading after

March 31.

- If the Board of Economic Advisors (BEA) forecasts a reduction in revenues after April 10 for the next fiscal year, the session may be extended up to two weeks with the agreement of the Speaker of the House and the President Pro Tempore of the Senate.
- If a concurrent resolution is adopted by a two-thirds vote of both the Senate and House of Representatives not later than 5 p.m. on the second Thursday in May, between the time of 5 p.m. on that Thursday and the extended adjournment date, no legislation or other business may be considered except the general appropriations bill and any matters approved for consideration by a concurrent resolution adopted by two-thirds vote in both houses.

The South Carolina Revenue and Fiscal Affairs Office estimates the earlier adjournment will result in a \$345,789 savings to the state general fund.

In addition to moving up *sine die*, lawmakers amended the timeline for when the BEA must submit its revenue forecasts to the General Assembly as follows:

- An initial forecast of economic conditions and state revenues for the next fiscal year must be submitted no later than November 10 each year, and adjustments to the forecast must be considered on December 10 and again on February 15.
- A final forecast for the next fiscal year must be made on April 10; however, prior to June 30, the BEA may reduce forecasts as it considers necessary.

Before making or adjusting any forecast, the BEA must consult with outside economic experts with respect to national and South Carolina economic business conditions and forecasts.

## Campaign Contributions in Runoff House bill 3193

The General Assembly amended the elections laws relating to the attribution of contributions made during a primary election and a primary runoff election.

Contributions made on or before the seventh day after a primary are attributed to the primary. However, if there is a runoff, the amended law states that contributions made the day after the primary through the seventh day after the primary runoff are to be attributed to the runoff for the purposes of applying contribution limits.

## Charter School Revisions Senate bill 1262

In the waning weeks of the legislative session, lawmakers quickly moved to pass legislation amending the charter school law relating to charter schools designated as Alternative Education Campuses (AECs) to create new charter schools of choice aimed at serving students with dyslexia and other learning challenges.

The amended law allows alternative charter schools to have a “specific mission and purpose” to serve educationally disadvantaged students with a demonstrated need and to allow mission-aligned preference to those students who qualify.

The bill was pushed after lawmakers passed the joint resolution requiring dyslexia training for all literacy coaches and literacy teachers in kindergarten through third grade before the beginning of the 2016-2017 school year.

The charter schools are required to specialize in providing evidence-based, specific educational or behavioral health services for educationally disadvantaged students with a demonstrated need for such services.

Demonstrated need may include a need that is documented in an Individualized Education

Program (IEP), a 504 plan, a medical or psychological diagnosis, or documentation that the student is not meeting grade-specific standards in literacy. The specialized mission and purpose must be defined in the school's charter and charter contract. The charter schools may use comparisons to any available nationally normed data with similar subsets of students for accountability purposes.

## Coordinating Council for Workforce Development

### House bill 4145

Lawmakers, as part of Governor Haley's call for enhanced workforce development, enacted legislation creating the Coordinating Council for Workforce Development. The Council will be under the direction of the Department of Commerce and is charged with engaging in discussions, collaborating, and sharing information concerning the State's ability to prepare and train workers to meet current and future workforce needs.

Among the appointed members is the State Superintendent of Education and an appointee of the State Superintendent who has particular expertise in the Education Economic Development Act (EEDA). Also, one of the duties of the Council is to recommend to the General Assembly programs to incentivize dual enrollment and programs providing access to money for those who want to go back to school.

## High School Diploma Petitions Extension

### Senate bill 933

In 2014, the General Assembly enacted legislation eliminating the high school exit exam, thereby allowing a person who did not pass the exam but is otherwise eligible for a high school diploma to submit a petition to the local school board for a diploma. The

deadline to petition school boards was December 31, 2015. This year, lawmakers eliminated the deadline to petition the local board, extended the deadline for reporting the number of diplomas issued and revising the time that SCDE is to advertise the program. The local school board will determine the student's eligibility to receive a high school diploma and transmit diploma requests to the SCDE in accordance with department procedures.

Those receiving diplomas are not to be counted as graduates in the graduation rate calculations for affected schools and districts, either retroactively or in current or future calculations.

On or before January 31, 2019, the SCDE will report to the State Board of Education and the General Assembly the number of diplomas granted, by school district.

The SCDE is to advertise the petition program in at least one daily newspaper of general circulation in the area of each school district within 45 days after enactment of the law but is not required to advertise after December 31, 2017.

## Impact Fees Exemption

### House bill 4416

This year, the General Assembly stopped the ability of counties to impose local impact fees on school districts for the construction of new elementary, middle, or high schools. The amended law also allows counties, under certain conditions, to use impact fee revenue from other sources for public education K-12 facilities including, but not limited to, schools, offices, classrooms, parking areas, playgrounds, libraries, cafeterias, gymnasiums, health and music rooms, computer and science laboratories, and other facilities considered necessary for the proper public education of children.

These changes could lead to lower construction expenses for school facilities and could possibly result in increased funding for school facilities should county governments elect to utilize impact fee revenue for that purpose.

## Ethics Reform Act Revisions

### House bill 318

Among the bills to revise the State Ethics Act that made it into law this year is one that defines income and revises the income disclosure requirements that public officials must provide on their annual statement of economic interests forms through the State Ethics Commission.

Under the South Carolina Ethics Act, public officials are required to file statements of economic interests, including school district board members, county board of education members, superintendents, and chief finance officers in the district. This statement is provided electronically through the State Ethics Commission website.

Income, for the purposes of completing the statement of economic interests form, is anything of value received, which must be reported on a form used by the Internal Revenue Service for the reporting or disclosure of income received by an individual or a business. Income does not include retirement, annuity, pension, IRA, disability, or deferred compensation payments received by the filer or the filer's immediate family member.

Finally, the law was also amended to add new requirements for the statement of economic interests. Public officials, beginning January 1, 2017, will be required to provide, among other things, a list of the private source and type of any income received in the previous year by the filer or a member of his/her immediate family. This does not include income received through the following means:

- pursuant to a court order

- a savings, checking, or brokerage account with a bank, savings and loan, or other licensed financial institution
- a mutual fund or similar fund in which an investment company invests its shareholders' money in a diversified selection of securities

## Public Prayer and Invocation Act Revisions

### Senate bill 233

The General Assembly amended the South Carolina Public Prayer and Invocation Act relating to invocations at open meetings of public bodies. Within the new law, the legislature analyzed court decisions by the United States Supreme Court and the United States Fourth Circuit Court of Appeals in which invocations before deliberative public bodies have been upheld.

The General Assembly reviewed *Marsh v. Chambers*, 463 U.S. 783, 786 (1983), noting that the United States Supreme Court rejected a challenge to the Nebraska Legislature's practice of opening each day of its sessions with a prayer by a chaplain paid with taxpayer dollars, and the Court specifically concluded, "The opening of sessions of legislative and other deliberative public bodies with prayer is deeply embedded in the history and tradition of this country. From colonial times through the founding of the Republic and ever since, the practice of legislative prayer has coexisted with the principles of disestablishment and religious freedom."

The General Assembly also included *Simpson v. Chesterfield County Board of Supervisors*, 404 F.3d 276 (4th Cir. 2004), in which the United States Court of Appeals for the Fourth Circuit reviewed and specifically approved the policy of a county board in which various clergy in the county's religious community

were invited to present invocations before meetings of the board.

Finally, the General Assembly assessed the more recent *Town of Greece v. Galloway*, 134 S.Ct. 1811 (2014), stating that the United States Supreme Court held a town's practice of opening its town board meetings with sectarian prayers by guest religious leaders expressing the beliefs of one faith did not violate the Establishment Clause.

The legislature emphasized the finding of the Court that prayer is permissible so long as it is consistent with the tradition of lending "gravity to public business;" the prayer opportunity has not been exploited to proselytize or advance any one, or to disparage any other, faith or belief; the public body does not discriminate against minority faiths in determining who may offer a prayer; and the prayer does not coerce participation by non-adherents.

Furthermore, the General Assembly acknowledged that it passed Act 241 of 2008 before the United States Supreme Court issued *Galloway*, and the Act should be amended to incorporate *Galloway's* holding.

The amended law defines invocation as prayer, provides that a deliberative public body includes a school district board, and permits public bodies to deliver a public prayer or invocation under certain conditions.

The amended law adds that a public invocation must not, among other things, coerce participation by observers of the invocation in order to comply with applicable constitutional law. It further broadens the items that may be included in a policy to permit public invocations adopted by the public body as follows:

- The requirement to regularly and objectively rotate invocation duty among members of the public body is eliminated.
- The requirement that invocation speakers be selected on a rotating basis is eliminated.

- The requirement that the public body compile a list of all known, established religious congregations in the local community and mail an annual invitation to the religious leader of each to give the invocation is now optional.
- The law still maintains that the attorney general will defend any deliberative public body against a facial challenge to the constitutionality of the Act.

**Special note:** School boards must be mindful that neither the Fourth Circuit nor the United States Supreme Court have determined that school boards sit in the same deliberative posture as other, uniquely legislative, government bodies. Furthermore, even with the defense of the Attorney General, if a lawsuit were to arise, there is no clarification that the school district would not bear the costs of litigation should the opposing party prevail. School districts may choose to petition the Attorney General for answers to these questions.

### Special needs tuition tax credit Proviso 109.15

The continuing proviso, which directs the implementation of the statewide private school tuition tax credit program for exceptional needs students, underwent significant changes this year.

The biggest change is the elimination of the nonprofit and controversial Scholarship Funding Organizations (SFOs) that collected donations and awarded scholarships to qualifying students for tuition and other expenses to private schools. The change was made after a South Carolina Department of Revenue (DOR) audit of one organization revealed questionable practices.

The proviso creates a new Educational Credit for Exceptional Needs Children Fund in partnership with the DOR. Existing SFOs (a total of four of them) are to hand over any

remaining donations they have as of July 1 and cease operation by August 1. A board of directors, appointed by House and Senate finance leaders and the governor with input from private school organizations, will govern and operate the fund and distribute scholarships. The DOR is authorized to expend up to two percent of funds raised for administration and related costs but may not expend public funds to administer the program.

Students currently being served by the program are to be prioritized for eligibility of future scholarships. In addition, the proviso increases the amount of the scholarships that may be offered from \$10,000 to \$11,000 per student. While the total amount of donations eligible for tax credits was increased from \$8 million statewide to \$10 million statewide, the amount eligible for direct tax credits by individual parents was reduced to \$2 million.

## NEW AND REVISED MANDATES FOR SCHOOLS

### Adult Students with Disabilities Educational Rights Consent Act House bill 5021

The General Assembly enacted legislation to provide an alternative means for adult special education students who have not been determined to be incapacitated to delegate their right to make educational decisions to another adult. Under the Individuals with Disabilities Education Act (IDEA), a special rule is provided for students who have not been determined incompetent but lack the ability to provide informed consent to educational services. The rule directs the state to establish procedures for appointing the parent/legal guardian of a student with a disability, or another appropriate individual if the parent/legal guardian is not available, to represent the educational interests of the student who has reached the age of majority and has not been determined to be incompetent, but can be determined not to have the ability to provide informed consent with respect to his/her educational program. South Carolina did not have a procedure in place that would apply to this section of the IDEA, which in turn created a gap in the law for these students. Currently, adult special education students' rights automatically transfer to them unless they have a court-

appointed guardian or a signed power of attorney voluntarily transferring their legal rights to the parent/legal guardian, both of which can be costly and may not be appropriate for all students. An adult student may be identified as incapable of communicating, with or without reasonable accommodations, his/her wishes, interests, or preferences with respect to his/her educational program as early as 60 calendar days before his/her 18th birthday or 65 business days before an eligibility meeting, if he/she is undergoing initial eligibility for special education services. The Adult Students with Disabilities Educational Rights Consent Act outlines procedures for determining eligibility to include certification in writing by the student's physician, nurse practitioner, physician's assistant, psychologist, or psychiatrist who is not an employee of the district or state education agency serving the student who finds the student incapable of communicating, with or without reasonable accommodations. The certification must remain in effect during the period the student receives educational services as an adult,

regardless of whether or not the student transfers to another school or district. The Act further establishes what must be determined for a student to be considered incapable of communicating; provides a process for challenging the designation of an educational representative; and directs schools, as part of the student's transition plan, starting at age 13, to assist students eligible for special education with the transition to adulthood.

### Cervical Cancer Prevention Act House bill 3204

As an effort to educate more parents/legal guardians and adolescents about the human papillomavirus vaccination series to prevent cervical cancer, lawmakers passed the Cervical Cancer Prevention Act, which includes possible involvement of schools enrolling students in grades 6 and 7. The Act authorizes, beginning with the 2016-2017 school year, the Department of Health and Environmental Control (DHEC) to offer the following:

- Cervical cancer vaccination series for students enrolling in the seventh grade in any school, whether it is public, private, or a home schooling program. No student is required to have the vaccination series before enrolling in or attending school, and consent of a parent/legal guardian is required for a student to receive the vaccination.
- Informational brochures concerning adolescent vaccinations, including the cervical cancer vaccination series, to schools and home schooling programs enrolling students in 6th grade. The brochure specifically must state the benefits and side effects of the vaccination series and that the vaccination series is optional. The brochure must encourage the parent/legal

guardian of a student to take the child to the child's own healthcare provider to be vaccinated.

At the beginning of the school year, each school and home schooling program may provide this informational brochure to the parents/legal guardians of all 6<sup>th</sup> grade students. Implementation of the Act is contingent upon the appropriation of state and federal funding to DHEC to fully cover the costs of providing this vaccination series to eligible students, as well as the availability of funds to produce the informational brochure. The Act further prohibits DHEC from contracting with a healthcare provider to offer the vaccination series if the healthcare provider performs abortions.

### CPR and AED Instruction House bill 3265

South Carolina high schools can add one more program to the list of health education instructional requirements that must be provided to students

The General Assembly amended the Comprehensive Health Education law requiring that students receive, at least once during their four years of high school, instruction in cardiopulmonary resuscitation (CPR). The instruction must include, but not be limited to, hands-only CPR and awareness in the use of an automated external defibrillator (AED).

The Act, known as Ronald Rouse's Law, also directs the State Board of Education to incorporate CPR training and AED awareness into the state health and safety education standards and to promulgate regulations. School districts must adopt a participation waiver policy for a student absent on the day of the instruction, a student with a disability whose individualized education program IEP indicates he/she is unable to complete all or a portion of the hands-only CPR requirement, or

a student whose parent/legal guardian completes, in writing, a form approved by the school district opting out of participating. Students who have already taken the training will not be required to participate. CPR and AED instruction must incorporate psychomotor skills necessary to perform CPR and must be developed by the American Heart Association, the American Red Cross, or an instructional program that is nationally recognized and based on the most current national, evidence-based emergency cardiovascular care guidelines. Districts are to coordinate with entities that have the experience and necessary equipment for the instruction of CPR and awareness in the use of AEDs. Virtual schools may administer the instruction virtually and are exempt from any in-person instructional requirements.

### South Carolina Founding Principles Act House bill 3848

To reinforce the importance of educating students on the founding principles of the United States, the General Assembly passed the South Carolina Founding Principles Act. The law directs the State Board of Education and EOC to incorporate instruction on the United States founding principles into the state social studies curriculum standards in the next cyclical review. Instruction is to include, at a minimum, the Federalist Papers and instruction on the structure of government and the role of the separation of powers and the freedoms in the Bill of Rights. Further, it directs the SCDE, beginning in 2017, to submit a report biennially by October 15 of each odd-numbered year to the Senate Education Committee and the House Education and Public Works Committee documenting the implementation of the law. The SCDE is to make professional development opportunities available to teachers regarding instruction.

### School Food Service Meals Senate bill 484

The General Assembly enacted legislation to clean up old language in state law relating to elementary school food service meals and competitive food requirements. The amended law requires schools to comply with federal law. It directs the State Board of Education (SBE) to establish requirements for all school food service meals and competitive foods provided to students in kindergarten through 12th grade during the academic school year that meet or exceed nutritional requirements established by the United States Department of Agriculture Food and Nutrition Service. Food sold as school fundraisers and food that a parent/legal guardian may provide for student consumption at school is exempt from the USDA nutritional requirements; however, it does not restrict or prohibit the SBE or a school district board from adopting a more restrictive policy. Finally, the new law requires school health improvement plans to note compliance with federal nutritional requirements.

### School Start Date, Testing, and Accountability House bill 5140

What started out as a bill to change the school year start date morphed into a bill revising state testing and extending the deadline to develop a single education accountability system. When efforts to change the school year start date failed, the bill, when passed, retained the existing date of no earlier than the third Monday in August. This leaves open the opportunity to advocate for change in the future. The changes left in the bill relate to the state assessment system and the accountability system.

The bill amends portions of the State's Education Accountability Act to direct the SCDE to procure, administer, and maintain a summative assessment in English/language arts and mathematics for students in grades 3 through 8 and in science and social studies to all students in grades 4 through 8. The legislation requires the following:

- Tests will be administered to all students in a computer-based format, except for students with disabilities as specified in their individualized education program (IEP) or 504 plan, and unless the use of a computer by these students is prohibited due to the vendor's restrictions on computer-based test security, in which case the paper version must be made available.
- Procedures for requesting paper-based tests under certain circumstances to include extreme weather disruptions and technology disruptions are provided.
- Beginning with the 2017-2018 school year, each school district will administer state tests, with the exception of alternate assessments, for grades three through eight during the last 20 days of the school year as determined by the district's regular instructional calendar, not including make-up days.
- Districts and charter schools may request extensions for the 20-day testing window to the State Board of Education before December 1 of the school year affected.
- Districts may not test a student for more than eight days each school year except for students with disabilities as specified in their IEP or 504 plan.
- For the 2016-2017, 2017-2018, and 2018-2019 school years, the SCDE will be responsible for ensuring the procurement and administration of the ACT Plus Writing assessment and the WorkKeys assessment.

- Following the 2018-2019 school year, the SCDE will procure and administer a standardized national test that documents student progress toward national college and career readiness.
- The EOC will report the results of assessments in school years 2014-2015, 2015-2016, and 2016-2017, but prohibits the rating of districts or schools for these years.
- The requirement that the EOC develop and recommend a single accountability system that meets federal and state accountability requirements is extended to the fall of 2017 for implementation in the 2017-2018 school year.

## Teacher Employment and Dismissal Act Revisions

### House bill 3560

After two years, the SCSBA-backed bill to amend the state Teacher Employment and Dismissal Act finally moved out of the Senate and onto the governor's desk for her signature. Last year the bill to amend the Teacher Dismissal and Employment Act, H.3560, was stopped on the Senate floor after passing unanimously and quickly out of the House and Senate committees. However, this year minority reports, which stopped the bill from going forward, were removed, and the bill was able to proceed through the process. The new law allows school boards more flexibility in the teacher employment and dismissal process, to include the option of appointing a hearing officer to hear teacher appeals and provide a recommendation to the full board, which retains the final decision-making authority.

### ***Changes to notification timelines***

- The annual deadline to issue employment contracts to teachers was moved from April 15 to May 1.

- Notice of the superintendent's recommendation not to renew the contract must be given in writing before May 1.
- Teachers must accept contracts by written notification to the board before May 11. The previous deadline was April 25.
- The timeline for teachers to request a hearing to appeal a recommendation for non-renewal of contracts did not change (within 15 days after receiving notification).
- The timeline for holding an appeal hearing changes from not less than 10 or more than 15 days to within 45 days after the request for a hearing is served.

### ***Teacher appeal hearings***

A teacher who receives notice of non-renewal or is dismissed for cause during the school year has the opportunity for a hearing to appeal the superintendent's recommendation. Written notice from the superintendent must be given to the teacher. The superintendent or his/her designee may meet with the teacher before issuing a notice of dismissal to discuss alternative resolutions and the parties attending this meeting must have the option of having a representative present.

### ***Appeal hearing changes***

The amended law allows school boards the option of hearing teacher appeal cases or delegating the hearings to one or more hearing officers. If a board chooses to delegate this function, it must adhere to the following requirements:

- The board will adopt a policy indicating its use of this method and communicate the change to all affected employees within 15 days. A subsequent change may only be made pursuant to the board policy revision process.
- The board's designee must be an attorney licensed to practice law in this state and

certified by the South Carolina Supreme Court as a mediator or arbitrator.

- The designee(s) must hear all evidentiary hearings in the district for the school year except when both parties consent to use an alternate hearing officer, or the district uses more than one designee, in which case the parties may by mutual consent select one of these designees for their hearing or, if they fail to reach such an agreement, the board will randomly select one of its designees for the hearing.
- The hearing officer will issue a written report and recommendation containing findings of facts and conclusions of law to the board, superintendent, and teacher within 15 days after the hearing concludes. The superintendent and the teacher may submit a written response to the report and recommendation to the board within 10 days after the report and recommendation are issued.
- The board will issue a decision affirming or withdrawing the notice of suspension or dismissal within 30 days. The board, within the 30-day limit, can also choose to conduct a hearing to consider any written responses from the superintendent and teacher and issue its decision affirming or withdrawing the notice of suspension or dismissal. The board retains final decision-making authority.
- If the board holds the evidentiary hearing, it must issue its decision within 30 days after the hearing. The board must determine if the evidence shows good and just cause for the notice of suspension or dismissal, and decide to affirm or withdraw the notice of suspension or dismissal and decide to affirm or withdraw the notice of suspension or dismissal, which must be in writing and must include findings of facts and conclusions of law.

# What's next?

When lawmakers convene in 2017, the big issues on their plates, among other things, will include dedicating a stable and consistent revenue stream to fund road and other infrastructure construction and repairs, how to address the looming fiscal crisis in the state retirement system and calls for possible tax reform. For K12, the issues that may likely be up for discussion are as follows:

## Abbeville funding case decision

The State Supreme Court is expected to respond to the latest court filings in its 23-year-old education school funding case. In its ruling last fall, the court gave legislators an end-of-session deadline this year for submitting a plan to improve schools in the plaintiff districts. In its response filed in July, lawmakers listed legislation and funding allocations it enacted. However, attorneys for the plaintiff districts contend the General Assembly's plan is not a plan.

## State support for school construction, renovation

Time ran out of this year's legislative session to act on a bill that would provide state funding to school construction and renovations for districts with low income tax base. Lawmakers in its response to the Supreme Court concerning actions it had taken to respond to the school funding ruling, cited it would revisit this issue in the coming session. In general, the bill would direct the SCDE to develop a system to determine priority list of neediest schools needing to be rebuilt or repaired and submit the list annually to the General Assembly for funding options.

## Single accountability system

With the passage of the federal Every Student Succeeds Act (ESSA), South Carolina has an opportunity to revise its education accountability system that has been in place since 1998. ESSA is the former No Child Left Behind that required annual testing, reporting and identification of low performing schools. While the new ESSA requires testing, it allows for other factors to be used in identifying underperforming schools. The design of the system is left up to the state. The SCDE is working on the state's ESSA plan and is striving to submit it to the US Department of Education in December. In addition, the General Assembly has directed the EOC to recommend a state accountability system that meets federal and state accountability requirements by the fall of 2017.

## Teacher shortage

According to a Teacher Supply and Demand report by CERRA and the SC Commission on Higher Education (CHE), the number of teachers leaving the profession each year is significantly higher than the number of students graduating from state colleges who are eligible for teacher certification. Overall, South Carolina does not produce a sufficient number of teachers through the state's teacher education programs to fill current and anticipated vacant positions. Graduates from in-state teacher education programs are the largest source of newly hired teachers each year. Other new hires include international teachers and those from another state, and teachers from alternative certification programs like South Carolina's Program of Alternative Certification (PACE). These

sources combined, however, may not generate a supply of teachers large enough to meet the current or projected demand for teachers based on student enrollment.

Teacher shortages are expected most in seven core subject areas over the next 12 years. They are art, business/marketing/computer technology, mathematics, sciences, social studies, special education, and Spanish. The estimates of the cumulative teacher shortages in math that the state is likely to experience if there are no changes in current patterns of hiring or completions of in-state teacher education programs, is 459 new math teachers by 2021-22 and rises to 527 in the 2027-28 school year.