

2016 Fall
Legislative
Preview
Webinar

Wednesday

Oct. 26

Noon to 1 p.m.

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general information

SCSBA looks forward to your participation in our live Legislative Preview Webinar from noon to 1 p.m. on Wednesday, October 26, 2016.

The purpose of the webinar is to review some of the issues likely to be debated during the 2017 session of the General Assembly so that school boards can begin talking about them with their local legislators before the session begins in January.

View/participate online free of charge

The link to the webinar will be available at scsba.org and has been emailed to members.

The webinar will be presented using YouTube Livestream. A high speed internet connection is highly recommended to adequately view the live streaming video, and sound capability is a must.

Individuals can view/participate from their home or office computers. Some school boards may choose to view/participate as a group at a school or district office location. If watching/participating as a board, or when there is a quorum of the board, we recommend you notify the media, just as you would for any board meeting or event.

Submit your questions, comments

Questions and comments can be made during the webinar by typing them into the chat box that can be seen on the screen.

View online afterwards

For those who are not able to view the live program, SCSBA will record the webinar and post the recorded version at scsba.org by the following day.

boardmanship institute

Board members who view the webinar will receive 5 points and 1 hour of credit in the Boardmanship Institute. Board secretaries are asked to email the names of participating board members in their district to Sandy Poole at spoole@scsba.org by Friday, November 11 to receive credit.

agenda

1. Welcome and purpose

Kathy Coleman, *SCSBA President, Saluda County Schools Board*

2. Legislative issues discussion

Debbie Elmore, *SCSBA Director of Governmental Relations and Communications*

Scott T. Price, *SCSBA Executive Director*

3. Closing comments

Kathy Coleman, *SCSBA President, Saluda County Schools Board*

legislative issues, position statements, talking points

New statewide education accountability system

Overview

The South Carolina Department of Education (SCDE) and the South Carolina Education Oversight Committee (EOC) are currently in the process of redesigning the state education accountability system that will be used to hold districts and schools accountable for increased student achievement. The redesign is the result of two major factors:

1. Passage of the federal Every Student Succeeds Act (ESSA), formerly known as No Child Left Behind Act (NCLB), in December 2015.
2. Passage of state legislation in 2016 directing the EOC to develop and recommend to the General Assembly in the fall of 2016 a single education accountability system that meets federal and state accountability requirements for implementation in the 2017-2018 school year.

Prior to this past school year, South Carolina districts and schools were held accountable by a federal system and a state system. While there were similar requirements under both systems, the annual ratings assigned to districts and schools were formulated using different criteria and methods, which were not easily understood by parents and the public. Annual ratings under the federal system were known as Adequate Yearly Progress (AYP), while the annual ratings under the state system were an absolute rating and a growth rating.

The main reason for the differences? Unlike in other states, South Carolina has two separate

education entities that develop the accountability system. The EOC is charged with designing the state system and the SCDE is charged with designing the federally required system.

For ESSA, SCDE is directed to develop the state's plan for adhering to the new accountability requirements, which go into effect in 2017-2018. The plan is due by March of 2017.

Meanwhile, the EOC was directed by the General Assembly in 2014 to develop and recommend "a single accountability system that meets federal and state accountability requirements by the fall of 2016." Currently, there are differences in what the SCDE is considering to be included in the federal plan and what the EOC is considering to be included in the state plan.

ESSA changed many of the accountability requirements, including the elimination of AYP under the former NCLB, and provides an opportunity for states to develop a more uniform accountability system.

While ESSA eliminated the "all or nothing" provision of NCLB when determining the rating for a district or school, it does, among other things, maintain that states have curriculum standards in English language arts, math and science, annual testing for certain grades and subjects of 95% of all students, annual measuring and reporting of school and district performance using a state-defined index system and targeting state assistance for low performing schools.

The biggest change to the law was eliminating an AYP rating each year. In fact, ESSA does not require any ratings be applied to schools and districts; however, proposed regulations recently released by the U.S. Department of Education direct the state to provide a summative rating for schools and districts. This regulation is being strongly opposed by national education organizations, include the National School Boards Association.

In addition, ESSA directs that the design of the accountability components, the 95% testing requirement, methodology for measuring school and district performance and reporting be left up to each state. In fact, ESSA went further by specifying a number of unprecedented prohibitions on the U.S. Secretary of Education and the U.S. Department of Education in implementing the new law.

Under ESSA, states are to establish “ambitious state-designed, long term goals” with measurements of interim progress for:

1. Improved academic achievement on state assessments
2. Graduation rates
3. Progress in achieving English language proficiency for English learners

ESSA directs states to develop their own index system for measuring school and district performance, which must include, but not be limited to, the following:

1. Academic indicators, which must include test results, a measure of student growth or other statewide academic indicator for elementary and middle schools, graduation rate for high schools and English proficiency. These indicators must be given “much greater weight” in the state’s formula for measuring school and district performance.
2. Measure of school quality or student success. States determine the indicator(s) they want to use in measuring school quality or student successes.

ESSA Accountability Components Chart

		Elementary	Middle	High
1.	Academic achievement based on annual state tests in reading/English and mathematics. Science tested in one elementary grade (3–5), one middle school grade (6–9) and one high school grade (10–12) (note: this requirement is to be given “substantial weight.”	✓	✓	✓
2.	95% of students tested (states determine how participation rate factors in their system)	✓	✓	✓
3.	Student growth or other statewide academic indicator	✓	✓	n/a
4.	Graduation rate	n/a	n/a	✓
5.	English language proficiency	✓	✓	✓
6.	Measure(s) of school quality and student success. At least one measure of school quality or student success must be used	✓	✓	✓

All of the accountability components must be broken down by student subgroups as in the past with newly added subgroups for students in foster care, as well as homeless students. Based on the performance of schools and student subgroups in a school, using the components in the preceding chart, states are required to “meaningfully differentiate” public schools in the state.

At least once every three years, states must identify the 5% lowest performing schools in the state, high schools that graduate less than two-thirds of their students and schools that have a student subgroup that consistently underperforms.

The SCDE has been working throughout the summer and fall to develop a draft plan and has involved educators and education organizations to provide input. SCDE hopes to provide a draft plan to the U.S. Department of Education in January to make any changes and give to districts for planning the 2017-2018 school year.

The EOC is also considering its plan and hopes to approve its recommendations by December to present to the General Assembly.

Finally, a superintendents’ group is also working on a plan and hopes to have it completed before January.

Guiding the direction for all entities in developing their plans is the state’s recently enacted Profile of the SC Graduate, which 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 math for college and career readiness.”

Based on presentations and discussions in various meetings, differences in accountability measures to include in the plan currently exist among the groups. Some of the major differences include the following:

- **The amount of testing used to measure academic achievement.** The SCDE proposes to follow the testing requirements under ESSA, which includes testing science in one grade at the elementary school level, one grade at the middle school level and using end of course biology exam results for high schools. SC currently test students in grades 3–8. EOC discussions have centered around retaining the current amount of testing i.e. annual testing in four subject areas for students in grades 3–8.
- **The method for calculating graduation rates.** The SCDE proposes using a 4 and 5 year rate, the EOC recommends a 4 year rate and the superintendents’ group recommends a 4 year rate for the state accountability system and a 5 year rate for the federal system.
- **The use of annual ratings for schools and districts.** The SCDE’s proposal does not use school and district ratings. ESSA does not require annual ratings. SCDE instead is proposing to use a “dashboard” system that will show the progression of test results and other indicators over time. The EOC is considering changing the current system to an annual A–F letter grade rating of schools and districts. The superintendents’ group proposes using a five performance level ratings system using the terms “Does not meet” to “Exceeds expectations.”

Position statement

SCSBA supports increased flexibility in state and federal accountability requirements to include (but not limited to) reduced testing and the elimination of annual school and district ratings based solely on test scores. A new accountability system should assist, encourage and reward education innovation focused on

effective instruction and student learning.

Talking points

- ESSA provides the state with an opportunity to reduce emphasis on time-consuming test scores that do not assist in teaching and learning. Unfortunately, components of plans under consideration continue to rely heavily on state test results. Other indicators could include student grade point averages which are used by colleges to determine admissions, student attendance, using innovative instructional programs including STEM or STEAM, personalized learning, etc.
- SCSBA does not support adding state testing for students in first and second grades. The research on testing young children is very clear: results are both unreliable and unpredictable. As such, it would be unfair and reckless at best to utilize test scores to define student knowledge or performance.
- ESSA does not direct the state to assign ratings or grades to schools and districts. SCSBA supports SCDE's proposal to report all of the accountability requirements in a "dashboard" type of format which provides greater information to parents and the public and allows a more simple way of viewing student progress over time.

State school facilities program

Overview

Time ran out of this year's legislative session to act on a bill to enact the South Carolina Education School Facilities Act that would provide state funding for school construction and renovations for districts with a low income tax base. However, lawmakers have said they plan to address the school facilities issues in 2017 and mentioned this commitment in their recent response to the state Supreme Court in the Abbeville case ruling.

In general, the bill filed this year would direct SCDE to develop a system for identifying and ranking schools in greatest need of renovation or reconstruction, beginning with the plaintiff districts in the Abbeville lawsuit. The SCDE and State Board of Education (SBE) are directed to develop regulations, requirements and processes for schools to qualify for funding.

The annual list would be submitted to the General Assembly, which would have to approve the funds through the sale of state bonds.

Position statement

SCSBA supports legislation to provide state assistance and funding for school construction and renovations in districts with a low tax base.

Talking points

- While wealthier school districts have large enough tax bases to pay for maintenance and construction needs, poorer school districts often struggle to raise money locally to improve, much less build, school buildings.
- In 2014, the State Supreme Court stated that some of the schools in the plaintiff districts are so inadequate that they violate the state Constitution.
- The state must examine the funding system for K12 schools, which are based on property values that make it extremely difficult for some districts with low tax bases to generate needed funding for construction.

Tax reform and school funding

Overview

House Speaker Jay Lucas announced in August the formation of the House Tax Policy Review Committee. The 14-member ad hoc committee was charged with reviewing the state's current tax code and submitting suggestions for reform to the speaker before the beginning

of the next legislative session.

“Our outdated tax code needs a dramatic transformation in order to promote economic competitiveness and increase the size of our citizens’ paychecks. Achieving this difficult task is long overdue, but necessary to ensure our tax code is fair for our taxpayers. A broader and flatter tax code will help continue to spur job growth and provide greater opportunities for South Carolina families,” Lucas stated in his announcement.

Chaired by Rep. Tommy Pope of York County, the committee has been meeting once a month since August studying the state’s tax codes, rates, exemptions and revenue system. Pope stated in one of the first meetings that whatever the committee ultimately recommends, the recommendations must be revenue neutral and not made to raise additional revenues for the state.

Much of the discussions so far have centered on Act 388 of 2006, which created a one-cent sales tax to exempt owner-occupied homes from paying operating taxes for local schools, shifting the funding burden to other properties such as commercial and rental properties.

At a public hearing on October 15, several people, including SC Chamber of Commerce CEO Ted Pitts, testified that Act 388 places a hardship on small business. SCSBA also testified on the negative impacts of Act 388 on education funding and asked the committee to study how any changes they may recommend would impact the funding system for education for all school districts. For example, he noted that recent changes to add new student weightings to the Education Finance Act (EFA) funding program caused funding shifts among districts creating winners and losers.

The Committee plans to hold work sessions on November 1 and 15, 2016, to formulate legislative proposals that may be submitted for consideration by the General Assembly in 2017.

Position statement

SCSBA believes the state should conduct an immediate review of the property tax relief plan enacted in 2006 to determine necessary changes that support high quality public schools and preserve local districts’ abilities to meet their operational and school facility needs. Changes should include, but not be limited to:

- ensuring that local district funds are held harmless or replaced with a stable, predictable funding source that will fully and equitably fund the public schools;
- amending the state constitution to increase the general obligation debt limit from eight to at least 12%; and,
- authorizing boards of education to raise local revenue, to include levying a 1% sales and use tax for certain non-recurring educational purposes.

SCSBA opposes state-driven sales and residential and personal property tax relief without adequate study of, or provision for, replacement of locally collected property taxes and consideration of implications at the local school district level. SCSBA supports sales tax exempt status for all local school districts. SCSBA believes that a review of components of the state’s tax structure, as well as any new tax relief measures, must be done in conjunction with comprehensive tax reform in South Carolina.

Talking points

- Lawmakers must consider education funding when studying changes to the state’s tax system.
- The passage of the property tax relief act (Act 388) in 2006 has significantly impaired the ability of local school boards to raise operational millage at the local level by shifting the burden to commercial and rental prop-

erties and putting in place a hard cap on a local board's ability to raise millage on the remaining classes of property.

- Locally-funded programs and community-driven school initiatives have suffered. It now becomes the legislature's responsibility to provide every district the funding necessary to meet the operational and programmatic requirements in state law and at the local level. Districts need more funding tools to address operational and capital needs.
- The funding of technology, school construction or other special non-recurring needs for school districts is a continuing concern. Current funding options, i.e. referenda or budgeted operations costs, do not lend themselves to addressing this concern.
- Special legislation is needed to assist willing school communities in funding special needs. Article X of the South Carolina Constitution limits school districts' bonded debt to 8% of the assessed valuation of property subject to taxation in the school district. In order to exceed the 8% limit, a school district must hold a referendum. The 8% limit became effective in 1982 and significantly affected a district's ability to sell bonds. SCSBA believes that at least 12% would give districts increased flexibility and reduce the need for many to go to referendum, which can be costly and time consuming. South Carolina's tax code over the years has become a disjointed, unbalanced structure that caters to special interests and is not supportive of local governments, including school districts. Comprehensive tax reform is long overdue.

State pension fund crisis

Overview

Legislative leaders in the House and Senate announced in July the formation of a joint committee to study and find reforms to address a growing financial crisis in the state pension

fund – a fund that more than 500,000 retirees, teachers and other public employees rely on for their retirement.

South Carolina's retirement system has an estimated \$21.3 billion liability that is expected to reach \$23 billion soon.

Since then, the committee has been meeting this fall and hearing from pension experts and receiving input from retirees and the public.

The liability in the fund is the result of a combination of several factors and circumstances to include:

- Lower rates of returns on investments annually since the stock market crash in 2008. The expected annual rate established by law is 7.5%. The rate of return last fiscal year was 1.6%.
- More retirees are now collecting benefits than active workers who are paying in the system. In 2000, there was one retiree for every three active employees. Today there is one retiree for every 1.4 active employee.
- Legislative changes made throughout the years to system's benefits program and eligibility.

Meanwhile, contributions to the fund by employees have increased annually, from 6% in 2010 to 8.66% this fiscal year. Contributions by employees have increased each year.

According to the SC Public Employee Benefits Association, the employee contributions make up 21% of the fund's revenues. The employer portion is 31% of the fund and the remaining 48% is investment earning. Nationally, state pension funds on average are comprised of 11% employee contributions, 25% employer contributions and 64% investment returns.

Also according to PEBA, school district employees make up the largest percentage (46%) of active employees in the fund, and school districts make up 15% of participating employers.

In 1997, SC voters approved a referendum allowing pension funds to be invested in equities or stocks and in 2005, the SC Retirement System Investment Commission was established. Up to 70% of the plan was allowed to be put into equities and stocks. When investments fall short, contribution rates for employees and employers are raised.

Some of the options on the table so far are:

- Changing the existing defined benefits retirement program in which the state guarantees a set of benefits and payout upon retirement, to a defined contribution program, in which employees are required to contribute a set amount into the fund (similar to a 401K or 403(b)).
- Using \$23 billion in state revenues to fund the liabilities in the defined benefit retirement program.
- Using a hybrid defined benefits and contribution plan.

Position statement

SCSBA supports legislative actions to ensure a quality state pension program for local and state employees.

Talking points

- Very concerned about the state continuing to shift a greater burden of retirement cost to employers or employees.
- Any mandated increases in employer contributions should be fully funded by the state and not redirected funds at the local level that mean cuts to staff or programs. The state does not provide adequate funding for fringe benefits costs which often means a cost shifted to local taxpayers (business and industries at the local level). And if the increased local funds are not approved, it usually means cuts to personnel, programs or services.

- Teacher and employee pay varies from district to district depending on the wealth of the district. While teacher pay raises have been provided by the General Assembly, in some rural districts, increased pay has been eaten up by increased contribution rates in health plans and retirement.
- While school districts cannot compete with most salaries in the private sector, having a quality health and retirement system can often be used to recruit teachers and staff. Further erosion of the retirement system benefits will compound an already growing teacher shortage.
- According to labor statistics, the state public schools as well as state agencies are facing a large group of employees who are within the window of retirement, which places a strain on districts to fill vacant positions.

Continuing issues

• Road and infrastructure needs

One of the big issues facing lawmakers when they return in 2017 is finding a solution to fund construction and repairs to the state's roads, bridges and other infrastructure needs, which has been estimated (prior to Hurricane Matthew) to cost more than \$42 billion. During budget deliberations this year, lawmakers were forced to scramble after the Senate voted to use about \$400 million from the state's general fund, to fund road construction and repairs. Ultimately, the General Assembly approved a "stopgap" \$2.2 billion road spending plan that leverages about \$200 million in motor vehicle fees and fines to borrow the funds. The general fund includes revenue for education and other core services. SCSBA is very concerned about any proposal that shifts the cost of major infrastructure and capital needs to the General Fund, which is the engine that drives core state and local government services, including K12 education. As with school district budgets,

buildings, renovations, and infrastructure expenses are paid for through building fund budgets and not out of the general fund. The state needs a dedicated, consistent stream of revenue through the Capital Reserve Fund for roads and bridges.

- **School safety**

The family of 6-year-old Jacob Hall, who was fatally wounded in the Townville Elementary School shooting in September, announced recently that they will pursue a state law requiring armed officers be placed in all South Carolina schools. A teen has been charged with opening fire at the school, wounding two 6-year-old students, hurting a third student, and shooting a first-grade teacher. Jacob died of his injuries October 1. The incident drew national attention and calls for increased school security. The state does not provide funding for School Resource Officers (SROs). School districts use local funds to pay for SROs or have an agreement with local law enforcement. The SBE is currently considering several regulations addressing the roles and responsibilities of SROs and student conduct. If approved, the regulations will head to the General Assembly for consideration. The regulation changes were recommended by a special school safety task force formed by State Superintendent of Education Molly Spearman in response to an incident involving the handling of a student by an SRO. That incident also drew national attention and calls for schools to take a broader look at SRO's roles in student discipline issues.

- **School start date**

A new law enacted this year to move the administration of state tests from April to the last 20 days of the school year may open the door for more flexibility at the local school board level in setting the school start date. When state lawmakers passed legislation requiring a uniform school start date in 2006, one of the arguments in support of the law centered on fixed dates that the state sets for

administering state standardized tests. Advocates, mostly representing the coastal area business and tourism industry, argued students in districts that began school in early August would have an unfair advantage in taking the tests because they would have more instructional days than students in districts that started school near Labor Day.

The flexibility of a 20-day testing window allows districts that want to start earlier to test early in the window and the districts wishing to start later to test later in the window. Both districts would have the same number of instructional days before their students take the tests.

In addition, a growing number of lawmakers in the House and Senate are expressing support for amending the uniform school start date to give local school boards the authority to set their own start date. School districts have found that depending on when the third Monday in August is positioned (as early as the 15th in 2016-17 and as late as the 21st in 2017-18), it is increasingly difficult to complete the first semester in 90 days before the winter holiday break, which many parents, teachers and students demand. Public pressure has led many school boards to end the first semester before the break and reduce the number of instructional days for students in completing first semester courses. Since many students take dual credit courses at technical colleges, moving the start date back one week will better assist in the alignment of those schedules for students to begin their new classes in January. Students who graduate early can complete their final exams and receive their diplomas in December or early January in time to start their college classes at the beginning of the spring term in January.

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. SCSBA supports legislation to move the start date to no earlier than the second Monday in August and opposes legislation that sets a specific date because of unusual swings from year to year that can cause specific dates to fall in different weeks or on certain days to include a Friday or on a weekend.

• **Teacher shortage**

This past legislative session, lawmakers made attempts to address the state's growing teacher shortage after a study showed a looming teacher shortage crisis in critical subject areas.

State Superintendent of Education Molly Spearman proposed increasing the starting salary for new teachers as an option to help with recruiting teachers, which is a national issue. Lawmakers have discussed various options to address the issue, including incentives to recruit teachers to high poverty areas, teacher loan forgiveness and programs to "grow your own" teachers. Lawmakers are expected to receive results of a teacher recruitment survey by December 1, 2016. The survey, which passed the General Assembly this past session, directs 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. 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. According to the Teacher Supply and Demand report by CERRA and the 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.

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, are 459 teachers by 2021-22, which rises to 527 in the 2027-28 school year.

• **Tuition tax credit/voucher expansion**

The statewide tuition tax credit program, which has been operating for the past four years through a budget proviso, will likely seek additional state funding to expand the program in 2017. The program was drastically reorganized this year in response to growing allegations of wrongdoing on the part of scholarship funding organizations. The General Assembly approved eliminating the scholarship funding organizations (SFOs) that were set to accept donations and award grants to exceptional needs students for tuition and expenses to attend private schools, as well as transfers. The responsibilities of the SFOs were transferred to the SC Department of Revenue (DOR) through a five-person board made up of legislative and

gubernatorial appointments. Other changes include:

- Increasing the maximum scholarship amount from \$10,000 per student to \$11,000 per student;
- directing the DOR to develop a process for prioritizing grants to eligible incumbent grant recipients at eligible schools; and
- increasing the total amount of scholarships that can be awarded statewide from \$8 million to \$10 million and decreasing the amount of statewide direct tax credits individuals can claim on their income tax returns from \$4 million to \$2 million, retaining the total appropriations amount to this year's allocation of \$12 million.
- SCSBA opposes the use of public funds directly or indirectly to subsidize private and/or parochial schools. However, if it is the will of the General Assembly to continue operating the program, the program should be amended and offer several changes as follows:
 - Add "religion" and "prior academic performance" as factors for non-discrimination in the definition of eligible independent schools. Currently the bill states that 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 that scholarships and individual refundable income tax credit be awarded to students who, among other things, do not receive special needs services from the state or school district of their legal residence.
 - 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.