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5 **A BILL**

6
7 TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA,
8 1976, BY ADDING SECTION 59-63-25 SO AS TO PROVIDE AN
9 OPEN ENROLLMENT OPTION IN PUBLIC SCHOOLS, AND
10 TO PROVIDE RELATED APPLICATION AND ENROLLMENT
11 PROCEDURES; TO AMEND SECTION 59-40-145, RELATING
12 TO INTERDISTRICT ATTENDANCE IN CHARTER SCHOOLS,
13 SECTION 59-63-30, RELATING TO PUBLIC SCHOOL
14 ATTENDANCE QUALIFICATIONS, SECTION 59-63-32,
15 RELATING TO PUBLIC SCHOOL ENROLLMENT
16 REQUIREMENTS, AND SECTION 59-63-480, RELATING TO
17 PUBLIC SCHOOL ATTENDANCE REQUIREMENTS IN
18 ADJACENT COUNTIES, ALL SO AS TO MAKE
19 CONFORMING CHANGES; TO REPEAL SECTION 59-63-45,
20 RELATING TO INTERDISTRICT STUDENT TRANSFER
21 REIMBURSEMENTS, AND SECTION 59-63-500, RELATING
22 TO INTERDISTRICT STUDENT TRANSFER CONSENT; AND
23 TO MAKE THE PROVISIONS OF THIS ACT EFFECTIVE JULY
24 1, 2021.

25
26 Be it enacted by the General Assembly of the State of South
27 Carolina:

28
29 SECTION 1. Article 1, Chapter 63, Title 59 of the 1976 Code is
30 amended by adding:

31
32 “Section 59-63-25. (A) Beginning with the 2023-2024 school
33 year, each local board of trustees shall follow the policy and
34 procedures established pursuant to this section for extending open
35 enrollment opportunities that allow parents to apply for their child
36 to enroll in any particular program or school within the district.

37
38 (B) Using a template developed and provided by the Department of
39 Education and approved by the State Board of Education, each local
40 board of trustees shall develop and adopt an open enrollment policy
41 based on its evaluation of available data reflecting student, school,
42 district, and community needs. The board shall ensure that the

Commented [SC1]: 3/1/22 Establishes the bill’s purpose up front; program begins school year 2023-24.

Commented [SC2]: 2/28/22 Districts develop policies based on local needs, including data, and submit on template developed and provided by SDE.

1 policy developed, and data used to develop the policy, and related
2 procedures are posted prominently on the district web site, and shall
3 provide the Department with its policy in a web-posting format.

4 (1) The open enrollment policy and process **must**:

5 (a) adhere to federal desegregation and other educational
6 requirements;

7 (b) identify and describe the application requirements,
8 timeline, and communication plan;

9 (c) allow parents to declare school preferences, including
10 placement of siblings within the same school;

11 (d) describe lottery and a wait list policies, and an appeal
12 process for adverse decisions;

13 (e) include the policies adopted by the board regarding
14 capacity standards, standards of approval and denial, priorities of
15 acceptance for enrollment; and transportation;

16 (f) describe whether the district **may** charge nonresident
17 students a fee to cover costs associated with their enrollment that are
18 not covered by federal, state, or local funding, and if so, how such a
19 fee is calculated: and

20 (g) include a component addressing public awareness of
21 open enrollment opportunities, accessing data on the open
22 enrollment capacity of a school, the district application process and
23 timeline, and written procedures for notification of acceptance or
24 denial of an application.

25 (2) In implementing the provisions of this section, a school
26 district may but is not required **to**:

27 (a) make alterations in the structure of a requested school
28 or to the arrangement or function of rooms within a requested
29 school;

30 (b) establish and offer any particular program in a school if
31 such program is not currently offered in the school;

32 (c) alter or waive any established eligibility criteria for
33 participation in a particular program, including age requirements,
34 course prerequisites, and required levels of performance;

35 (d) expand the capacity of a program or school for the
36 purpose of accommodating increased demand for open enrollment
37 opportunities;

38 (e) provide transportation to a student accepted pursuant to
39 this section who is attending a school outside of the attendance zone
40 of their residence; however, nothing in this section may be construed
41 to prohibit the district from providing bus transportation on an
42 approved route, from requesting state or federal funds for this

Commented [SC3]: 2/28/22 Outlines components that must be in the policy, establishes transparency provisions. District sets timeline, etc.

Staff Suggestion: Allow districts to establish intra-district timeline/deadlines but require SDE to establish a standard statewide timeline for inter-district deadlines.

Commented [SC4]: 2/28/22 Pending discussion on funding (will need to conform to 59-63-30 on p. 5).

Commented [SC5]: 3/1/22 Permits but does not require districts to make certain changes or alterations, to include providing transportation to students attending a school outside of their attendance zone.

1 purpose, or from entering into an agreement with another district to
2 provide transportation; or

3 (f) have more than one open enrollment application deadline
4 for intra-district applications, or for inter-district applications.

5
6 (C) (1) In implementing the provisions of this section, a student
7 who:

8 (a) currently resides in the attendance zone of a school;

9 (b) qualifies to attend a school within the attendance zone pursuant
10 to Section 59-63-30(c), 59-63-31, 59-63-425, or 59-63-550; or

11 (c) is a returning student who continues to meet the requirements of
12 the program or school,

13 must not be displaced by a student transferring from outside the
14 attendance zone.

15 (2) In the assignment of students for enrollment opportunities
16 remaining after students assigned pursuant to (1), enrollment
17 priority shall be given as follows, unless and until a district has a
18 policy in place in the school year prior to implementation of this
19 section that is revised to conform pursuant to (G):

20 (a) first, to students who meet the requirements of the
21 program or school and who seek to attend the designated school in
22 the district's feeder pattern;

23 (b) second, to the siblings of students residing in the same
24 household already enrolled in the school, provided that any siblings
25 seeking priority under this section meet the requirements of the
26 program or school; and

27 (c) third, to students whose parent or legal guardian is
28 assigned to the school as his primary place of employment, with any
29 remaining spaces being filled pursuant to a lottery procedure:

30 (i) for intra-district open enrollment applicants, then

31 (ii) if any remaining, for interdistrict open enrollment
32 applicants.

33 (3) The policies must not have the purpose or effect of causing
34 racial segregation in a school or the school district.

35 (4) Denial of permission to enroll in a particular program or
36 school may only be provided in the following situations:

37 (a) there is a documented lack of capacity in the school,
38 level, or program requested, in which case priority must be given to
39 a student who currently resides in the attendance zone of a school;

40 (b) the school requested does not offer a particular program
41 requested;

Commented [SC6]: 2/28/22 Allows for but does not mandate two open enrollment deadlines – e.g., Richland 2 has ‘Choice 1’ for the first round, and ‘Choice 2’ to fill any remaining slots.

Commented [SC7]: 2/28/22 Protects certain categories of students from being displaced by students from outside an attendance zone.

Commented [SC8]: 2/28/22 Including 59-63-30(c) conforms with changes to this statute, protecting residency eligibility via existing \$300 property ownership situations. Including 59-63-31, 425, and 550 preserves spots for vulnerable children (foster care, homeless, etc. & victims of bullying, stalking, etc.), and affected by 2016 SC/NC boundary clarifications.

Commented [SC9]: 2/28/22 Establishes and clarifies enrollment priorities.

Note: Priority categories listed are not exhaustive, and may need to be expanded &/or clarified - e.g., to conform to other statutes for placement of military children, children in foster care, etc. (59-46-50 Article VI; 59-38-10), etc.

Commented [SC10]: 2/28/22 Requires documented lack of capacity. Delineates allowable reasons to deny permission to enroll (capacity, etc.)

Commented [SC11R10]:

1 (c) the pupil does not meet the established eligibility
2 criteria for participation in a particular program, including age
3 requirements, course prerequisites, and required levels of
4 performance;

5 (d) a desegregation plan is in effect for the school district
6 and the denial is necessary to enable compliance with the
7 desegregation plan;

8 (e) the student is subject to provisions in Section 59-63-210
9 or Section 59-63-217; or

10 (f) .any combination of subitems (a) through (e).

11 (5) A school or district receiving an application request for
12 enrollment from a student pursuant to this section and district policy
13 shall respond with a written decision accepting or denying the
14 request within thirty days after receiving the request for enrollment.

15 (a) If a request is denied, the written decision must cite the
16 specific reasons for the denial. If a school or district fails to respond
17 with its written decision within thirty days of the application
18 deadline as published, the request shall be considered accepted and
19 the student may enroll in the program or school, subject to other
20 applicable laws regarding the enrollment of students in public
21 schools.

22 (b) A parent of a student whose child is denied enrollment in
23 a program or school pursuant to this section may upon good cause
24 appeal the decision to the superintendent of the district from which
25 the denial was issued, or to his designee. The school or the parent
26 may appeal an adverse decision by the superintendent to the local
27 board of trustees. The local school board shall hold the hearing
28 within thirty days after receiving a written request, unless the parties
29 mutually agree otherwise; ensure the proceeding is recorded and a
30 transcript is created; and issue a written order within ten days after
31 the hearing. The written order must contain findings of fact,
32 conclusions of law, and the disposition of the matter.

33
34 (c) A party aggrieved by the decision of the school board shall
35 have the right to appeal to the court of common pleas of the county,
36 where the matter will be tried de novo by the circuit judge. The
37 appealing party shall file its appeal within thirty days of the issuance
38 of the written decision provided in subitem (b). The local school
39 board shall certify to the court the record of the proceedings upon
40 which its written order was based, and the court shall admit the
41 record as evidence and consider the record, along with any
42 additional evidence either of the parties wish to present. A student

Commented [SC12]: 3/1/22 Establishes that applications may be submitted to the school or to the district, i.e., per district policy.
Establishes standards for expectations on timeline and communications regarding enrollment requests.

Commented [SC13]: 2/28/22 Provides process and time requirements to appeal enrollment decision: Adds the initial appeal to the district superintendent, then to local board; modifies appeal to the local board.

Commented [SC14]: 2/28/22 Appeal a local board decision to the court of common pleas.

1 who prevails in an action in the circuit court pursuant to this subitem
2 may recover reasonable attorney's fees and costs associated with the
3 action.

4
5 (D) An open enrollment policy adopted by a local board of trustees
6 shall:

7 (1) clearly distinguish intra-district policies from inter-district
8 policies;

9 (2) reviewed and updated periodically by the board, using the
10 template provided by the Department; and

11 (3) submitted initially, and if and as amended, to the Department
12 of Education.

13
14 (E) The Department shall include all district open enrollment
15 policies on its School Choice website portal, and shall annually by
16 October first provide an update to the State Board of Education, the
17 Senate Education Committee Chair, and House Education and
18 Public Works Chair on the status, progress, innovations, evolving
19 best practices and challenges of implementing the program,
20 including identifying districts which have not submitted a policy.

21
22 (F) A school district in the process of consolidation may apply to
23 the State Board of Education for a waiver from compliance with
24 some or all of the requirements of this chapter until the consolidation
25 is completed. Thereafter, the provisions of this section then must
26 apply to the district pursuant to the manner and timeline specified in
27 the waiver request.

28
29 (G) Except as provided herein, provisions in this section apply to a
30 district which has a documented open enrollment procedure in place
31 during the school year prior to implementation of this chapter.
32 Using a template provided by the Department, such districts shall
33 develop and submit a plan for conforming to provisions for State
34 Board of Education, and annual updates on status of meeting the
35 agreed upon timeline. The State Board of Education through the
36 State Superintendent of Education shall establish a standard inter-
37 district open enrollment timeline for parents and districts to follow.

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Commented [SC15]: 2/28/22 Added for clarification and program integrity: District boards must clearly distinguish intra-district policies from inter-district policies; submit policy adopted to SDE initially, and as the policy is periodically updated.

Commented [SC16]: 2/28/22 Added for transparency and accountability: Requires SDE to post district policies on its website and submit annual program updates to Senate and House Education chairs.

Commented [SC17]: 2/28/22 Added an accommodation for districts undergoing consolidation: Districts in the process of consolidation may apply to SBE for a temporary waiver from requirements.

Commented [SC18]: 2/28/22 Added to accommodate existing open enrollment programs, and to provide a path for amending local policies to conform with the program.

1 SECTION 2. Section 59- 63-30 of the 1976 Code is amended to
2 read:

3
4 SECTION 59-63-30. A. Qualifications for attendance.

5 Children within the ages prescribed by Section 59-63-20 shall be
6 are entitled to attend the public schools of any school district,
7 without charge, only if qualified under the following provisions of
8 this section:

9 (a) Such child resides with its parent or legal guardian;

10 (b) The parent or legal guardian, with whom the child resides,
11 is a resident of any such school district; or

12 (c) On or before June 30, 2022, The the child owns owned real
13 estate in the district having an assessed value of three hundred
14 dollars or more, and attended a school in that district;
15 and

16 (d) The child has maintained a satisfactory scholastic record in
17 accordance with scholastic standards of achievement prescribed by
18 the trustees pursuant to Section 59-19-90; and

19 (e) The child has not been guilty of infraction of the rules of
20 conduct promulgated by the trustees of such school district pursuant
21 to Section 59-19-90.
22

23 SECTION 4. Section 59-63-32 of the 1976 Code is amended to
24 read:

25 (A) The school district may require an adult seeking to enroll a child
26 who resides with the adult pursuant to Section 59-63-31(1)(c) to
27 accept responsibility for making educational decisions concerning
28 the child. These educational decisions may include, but not be
29 limited to, receiving notices of discipline pursuant to Sections
30 59-63-230 and 59-63-240, attending conferences with school staff,
31 and granting permission for athletic activities, field trips, and other
32 activities as required.

33 (B) The school district also must require an adult to complete
34 and sign an affidavit:

35 (1) confirming the qualifications set out in Section 59-63-
36 31(A) (1)(c) establishing residency of the child in the school
37 district;

38 (2) attesting that the child's claim of residency in the district is
39 not primarily related to attendance or achieving an unreasonable

Commented [SC19]: 2/28/22 Recommend grandfather (vs. repeal) existing "\$300" property ownership as an alternative to qualify for enrollment as a district resident, with a sunset date.

Recommend amend to retain and clarify that parental residency in SC still applies, vs. delete residency requirements for all students.

Commented [SC20]: 2/28/22 Recommend keep vs. delete (a); keep vs. delete (b), add a word.

Commented [SC21]: 2/28/22 Recommend sunset the \$300 provision and preserve enrollment in the school such student is already attending.

Commented [SC22]: 2/28/22 Recommend changes to conforms with other provisions in the bill bill provisions - not just (B) as bill was introduced:

Commented [SC23]: 2/28/22 No changes recommended to (A) in S. 544 as introduced. Added (A) and (D) for edification; recommended changes to (B) and added (C) and (E) to make changes to conform with the rest of this section.

Commented [SC24]: 2/28/22 Recommend retain but modify (vs. delete) text regarding residency information for these students.

1 advantage in enrollment priority at a particular school within the
2 district; and
3 (3) accepting responsibility for educational decisions for the
4 child."

5
6 (C) Upon receipt of the affidavit provided for in subsection (B), the
7 child must be admitted to an appropriate school pending the results
8 of any further procedures for determining eligibility and priority for
9 attendance within the school district.

Commented [SC25]: 2/28/22 Made changes to conform with (B).

10
11 (D) If it is found that information contained in the affidavit
12 provided for in subsection (B) is false, the child must be removed
13 from the school after notice of an opportunity to appeal the removal
14 pursuant to the appropriate district grievance policy.

15
16 (E) If it is found that a person willfully and knowingly has provided
17 false information in the affidavit provided for in subsection (B) to
18 enroll a child in a school or district for which the child is not eligible
19 or eligible for enrollment priority, the maker of the false affidavit is
20 guilty of a misdemeanor and, upon conviction, must be fined an
21 amount not to exceed two hundred dollars or imprisoned for not
22 more than thirty days and also must be required to pay to the school
23 district an amount equal to the cost to the district of educating the
24 child during the period of enrollment. Repayment does not include
25 funds paid by the State.

Commented [SC26]: 2/28/22 Added to conform with changes in (B) and (C).

26 SECTION 5. Section 59-63-480 of the 1976 Code is amended
27 to read:

Commented [SC27]: 2/28/22 Original text from bill as introduced: Preserves existing adjacent county arrangements, amends to conform with open enrollment.

28 "Section 59-63-480. If school children in one county reside
29 closer to schools in an adjacent county, they may attend such
30 schools upon by applying for enrollment through the applicable
31 school district's open enrollment procedures and
32 policies. Alternatively, the school authorities of the county of their
33 residence ~~arranging~~ may arrange with the school officials of the
34 adjacent county for such admission and upon payment of
35 appropriate charges as herein authorized. The board of trustees in
36 the school district in which the pupils reside shall make written
37 application through its county board of education to the board of
38 trustees of the district in which the school is located for the
39 admission of such children, giving full information as to ages,
40 residence and school attainment, and the board of trustees in the

Commented [SC28]: 2.28/22 (No changes recommended to text in original bill). Conforms existing statute to open enrollment provisions.

1 school district, agreeing to accept such pupils, shall give a written
2 statement of agreement. Upon receipt of such application the board
3 of trustees of the school and its county board of education shall
4 determine the monthly per pupil cost of all overhead expenses of
5 the school, which will include all expenses of the school not paid
6 by the State. Upon proper arrangement being made for the
7 payment monthly of such overhead per pupil cost for each such
8 child the same shall be admitted to the schools of the adjacent
9 county."

10 SECTION 6. Section 59-63-500 of the 1976 Code is repealed.

11
12 SECTION 7. This act takes effect upon approval by the Governor.

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Commented [SC29]: 3/1/22 Deleted repeal of 59-63-45: Recommend sunset vs. delete this section and grandfather existing students – i.e., conform to proposed changes to 59-63-30 on page 6. (Repealing 59-63-45 would mean parents of students attending a school in another district would no longer have to reimburse that district for local revenue + debt service, less taxes paid on property owned in that district).

Repealing 59-63-500 eliminates penalty if a district enrolls a student without the approval of the sending district.

Commented [SC30]: 3/2/22 Takes effect upon approval by the Governor.