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RECALLED

May 25, 2010

**S. 1372**

Introduced by Senator Leventis

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Read the first time April 22, 2010.

**A** **BILL**

TO AMEND ACT 387 OF 2008, AS AMENDED, RELATING TO THE CONSOLIDATION OF SUMTER SCHOOL DISTRICTS 2 AND 17, SO AS TO EXTEND THE TERM OF OFFICE FOR MEMBERS THAT ARE SET TO EXPIRE IN 2010; TO PROVIDE THAT THE SUPERINTENDENT OF THE CONSOLIDATED SCHOOL DISTRICT SHALL SELECT AND APPOINT AN ASSISTANT SUPERINTENDENT; AND TO AUTHORIZE THE BOARDS OF TRUSTEES OF SUMTER SCHOOL DISTRICTS 2 AND 17 TO ISSUE GENERAL OBLIGATION BONDS OF THE RESPECTIVE DISTRICTS FOR SCHOOL OPERATING PURPOSES UP TO THE CONSTITUTIONAL DEBT LIMIT OF THE RESPECTIVE DISTRICTS FOR SCHOOL OPERATING PURPOSES, TO PROVIDE CONDITIONS UNDER WHICH THE BONDS MAY BE ISSUED AND THE PURPOSES FOR WHICH THE PROCEEDS MAY BE EXPENDED, AND TO MAKE PROVISION FOR THE PAYMENT OF BONDS.

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

SECTION 1. Act 387 of 2008, as last amended by Act 112 of 2009, is further amended to read:

“SECTION 1. (A) Effective July 1, 2011, Sumter County shall consist of one school district to be known as the Sumter School District.

(B) The present School Districts 2 and 17 of the county must be abolished on July 1, 2011, and the powers and duties of the respective boards of trustees of each district devolved upon the board of trustees for the school district except as established in this act. Terms of members of the present District 2 and 17 boards that are set to expire in 2010 must be extended to June 30, 2011.

SECTION 2. (A) The school district must be governed by a board of trustees of seven members, one of whom must be elected from each district from which members of the Sumter County Council are elected. The members of the board must be elected in nonpartisan elections to be held beginning in 2010. A member of the board must be a resident of the school district and the election district from which he is elected. The members of the board shall elect a chairman and other officers they consider necessary to serve for terms of one year in these capacities. The 2010 nonpartisan election must be held at the same time as the general election. After the 2010 election, members of the board must be elected at nonpartisan elections conducted on the first Tuesday after the first Monday of November every two or four years thereafter as applicable beginning in 2012. Members of the board must be elected for four‑year terms and until their successors are elected and qualify, except that of the seven members of the board elected in 2010, the members elected from Election Districts 1, 2, 3, and 4 shall serve for initial terms to expire in November 2014, when their successors elected at the 2014 election qualify and take office, and the members elected from Election Districts 5, 6, and 7 shall serve for initial terms to expire in November 2012, when their successors elected at the 2012 election qualify and take office. In the event of a vacancy on the board occurring for a reason other than expiration of a term, the board shall call a special election to fill the unexpired term, so long as the vacancy does not occur within one hundred eighty days of a regular trustee election. In this case, the vacancy must be filled for the unexpired term through appointment by the Governor. All members of the board shall serve until their successors are elected and qualify. The Sumter Registration and Election Commission shall conduct and supervise the elections for members of the board in the manner as for the election of the Sumter County Council, subject to the election laws of this State, mutatis mutandis. The commissioners shall prepare the necessary ballots, appoint managers for the voting precincts, and do all things necessary to carry out the elections, including the counting of ballots and declaring the results. The commission shall publish notices of the elections in the same manner provided in Section 7‑13‑35 of the 1976 Code. The results of the elections must be determined by the nonpartisan plurality method as contained in Section 5‑15‑61 of the 1976 Code. The members of the board elected in these nonpartisan elections shall take office one week following certification of their election as provided in Section 59‑19‑315 of the 1976 Code.

(B) The school board shall select and appoint a superintendent to serve as superintendent of the school district. The superintendent is the chief operating officer of the district and is responsible to the board for the proper administration of all affairs of the district and subject to all other provisions of law relating to his duties. He shall:

(1) appoint and, when necessary for the good of the district, remove an appointive officer or employee of the district and fix the salaries of these officers and employees, unless otherwise provided by law and except as he may authorize the head of a department or office to appoint and remove subordinates in the department or office;

(2) prepare the budget annually, submit it to the board, and be responsible for its administration after adoption;

(3) prepare and submit to the board at the end of each fiscal year a complete annual report on the finances and administrative activities of the board for the preceding year and make other financial reports from time to time as may be required by the board or by law;

(4) keep the board advised of the financial condition and future needs of the district and make recommendations as he considers desirable;

(5) perform other duties as may be prescribed by law or required of him by the board not inconsistent with a provision of law; ~~and~~

(6) centralize all administrative functions including, but not limited to, human resources, accounting, procurement, transportation, school bus services, and maintenance~~.~~; and

~~(C)~~(7) ~~The board and the newly appointed superintendent shall~~ select and appoint an assistant superintendent for programs and policy whose duties include overseeing curriculum and making recommendations for program changes.

SECTION 3. (A) Budget authority is hereby vested in the school district except that, if the board of trustees of the school district deems it necessary to increase its tax millage, the county council shall, by a majority vote, approve the increase before it is levied. The district must submit the budget it has approved to the county council for consideration prior to May twentieth of each year for the succeeding budget year.

(B) The board shall hold a public hearing before its final approval of the budget for the district. Notice of these public hearings must be placed in a newspaper of general circulation in the district at least fifteen days before the public hearing.

(C) For purposes of determining the previous year’s millage of the district upon its creation, the millage levy for the district must be determined and calculated by the Department of Revenue based on the 2010 levy of Districts 2 and 17 and the value of a mill in each district. Beginning in 2011, the amount levied by the district by way of millage is subject to millage limitations provided by general law and local law, and beginning in 2011, any increase over the 2010 millage as computed above must be approved by the governing body of Sumter County.

SECTION 4. The board of trustees of the district has the power, duty, and responsibility as provided by law including the authority to:

(1) establish other administrative departments upon the recommendation of the superintendent;

(2) adopt the proposed budget of the school district;

(3) have the power to inquire into the conduct of an office, department, or agency of the school district;

(4) adopt and modify attendance zones of schools within the school district;

(5) provide for an independent annual audit of the books and business affairs of the school district and for a general survey of school district business;

(6) cooperate to establish and maintain a central purchasing system for the purchase of contractual services, equipment, and supplies;

(7) cooperate to establish and maintain educational consortia; and

(8) be responsible for policymaking action and the review of regulations established to put these policies into operation.

SECTION 5. (A) On July 1, 2011, the assets and liabilities of the present School Districts 2 and 17 must be transferred to the district. The records and employees of those present school districts must be transferred to and, if applicable, assumed by the school district. Entities that are jointly owned or operated between Districts 2 and 17 also become property of the school district.

(B) The constitutional debt limitation on the issuance of general obligation bonds applicable to the district is to be computed according to the law of this State and based on the assessed value of all taxable property in the district minus that bonded indebtedness of each of the present school districts made a part of the district that was includable against the constitutional debt limit of those present school districts.

SECTION 6. (A) The Boards of Trustees of Sumter School Districts 2 and 17 may on or before July 1, 2011, issue, without an election, general obligation bonds of the respective school districts within the constitutional debt limitation applicable to the respective school districts for school operating purposes. Bonds issued pursuant to this section must be transferred to the consolidated district on July 1, 2011.

(B) Bonds issued pursuant to this section mature on the dates the board prescribes.

(C) Bonds issued pursuant to this section may be issued with a provision for their redemption prior to their maturity at par and accrued interest, plus a redemption premium as may be prescribed by the board, but no bond is redeemable before maturity, unless it contains a statement to that effect. In the proceedings authorizing the issuance of the bonds, provision must be made specifying the manner of call and the notice of call must be given.

(D) Bonds issued pursuant to this section must be in the form of fully registered bonds or notes payable upon conditions as the board may prescribe.

(E) Bonds issued pursuant to this section must be in a denomination and must be made payable at a place, within or without the State, as the board prescribes.

(F) Bonds issued pursuant to this section bear interest at a rate or rates determined by the board.

(G) Bonds must be executed in a manner as the board prescribes by resolution.

(H) Bonds issued pursuant to this section must be sold at a price of not less than par and accrued interest, if any, to the date of their respective deliveries. Bonds authorized by this act may be sold at private or public sale upon the terms prescribed by the board.

(I) For the payment of principal of and interest on all bonds issued pursuant to this section, as they respectively mature, and for the creation of a sinking fund as may be necessary therefor, the full faith, credit, and taxing power of the school district must be irrevocably pledged, and there may be levied annually by the Auditor of Sumter County, and collected by the Treasurer of Sumter County, in the same manner as county taxes are levied and collected, a tax without limit on all taxable property in the school district sufficient to pay the principal of and interest on the bonds as they respectively mature and to create a sinking fund as may be necessary therefor.

(J) The principal of and interest on bonds issued pursuant to this section have the tax‑exempt status prescribed by Section 12‑2‑50 of the 1976 Code.

(K) The proceeds derived from the sale of any bonds issued pursuant to this section must be paid to the Treasurer of Sumter County, to be deposited in a bond account fund for the school district and must be expended and made use of by the board as follows:

(1) any accrued interest must be applied to the payment of the first installment of interest to become due on the bonds;

(2) any premium must be applied to the payment of the first installment of principal on the bonds;

(3) if any balance remains, it must be held by the Treasurer of Sumter County in a special fund to be used to effect the retirement of bonds.

(L) The powers and authorizations conferred upon the board by this section are in addition to all other powers and authorizations previously vested in the board and may be availed of pursuant to action taken at any regular or special meeting of the board by a resolution to take effect immediately upon its adoption.

(M) No elections prescribed as a condition precedent to the issuance of the bonds and no action other than that prescribed in this act need to be taken to effect the issuance of bonds nor are required to obtain the approval of any other public agency to any action taken pursuant to the authorizations by this section.

SECTION 7. In creating the district, it is anticipated that there will be savings in the total district level administrative costs from the former individual districts; therefore, district level administrative costs in the district must be less than the combined district level administrative costs of both districts by July 1, 2012. Administrative costs shall be those defined in the State Department of Education financial analysis model.

SECTION ~~7~~8. (A) The present School Districts 2 and 17 of Sumter County are abolished on July 1, 2011, at which time the school district must be established as provided in this act. The terms of all members of the boards of trustees of the two present school districts of the county expire on this date. However, the members of the board of trustees of the school district elected at the 2010 nonpartisan election shall take office one week following certification of their elections as provided in Section 59‑19‑315 of the 1976 Code. From this date and until July 1, 2011, the board may organize, begin planning for the changeover to the district, enter into contracts to effectuate these purposes, and perform other related matters pertaining to it, except that the responsibility and authority to manage the schools of the county rests solely with the individual boards for the two present districts until July 1, 2011, and the board may not interfere with this authority.

(B) Funding for the activities of the board from the date the members assume office until July 1, 2011, shall be provided by the county council from the millage levy for school operations.

(C) A member of one of the present school boards of Districts 2 and 17 may seek election to the school district board in 2010. However, if he is elected to that office, before assuming the duties of that board, he must first resign as a member of his present board. In this event and notwithstanding another provision of law, the vacancy on the present board he is vacating must be filled for the remainder of the unexpired term by appointment by the Governor.

SECTION ~~8~~9. (A) There shall be created within thirty days of the effective date of this act the Sumter Consolidation Transition Committee whose purpose is to coordinate the consolidation of Districts 2 and 17 into the Sumter School District. The committee is composed of the following:

(1) three members of the District 2 Board, or their designees, appointed by the District 2 Board;

(2) three members of the District 17 Board, or their designees, appointed by the District 17 Board;

(3) three members of the Sumter City Council, or their designees, appointed by the city council;

(4) three members of the county council, or their designees, appointed by the county council; and

(5) thirteen members appointed by the Sumter County Legislative Delegation, with consideration given to geographic, economic, and demographic segments of the community.

(B) Appointments by the school boards, city council, and county council must be submitted to the Sumter County Legislative Delegation within thirty days of the act being signed by the Governor. The Sumter County Legislative Delegation shall designate two chairmen from among the thirteen members appointed by the Sumter County Legislative Delegation. A vacancy on the committee must be filled for the unexpired term through appointment by the group that appointed the committee member whose departure from the committee created the vacancy.

(C) The committee may organize, begin planning for the changeover to the district, enter into contracts to effectuate these purposes, and perform other related matters pertaining to it.

(D) By no later than May first of each year, the Sumter Consolidation Transition Committee shall prepare a budget to be submitted to the Sumter County Legislative Delegation. When approved by the delegation, the budget must be funded by the school districts, each paying half, from funds provided by the districts from their respective budgets. County council may increase the budgets to meet these requirements.

(E) The committee shall be insured and indemnified in the same manner as School Districts 2 and 17 are insured and indemnified.

(F) Members of the committee shall receive per diem allowed by law for members of state boards, committees, or commissions, but are not entitled to mileage and subsistence.

(G) The committee must be abolished when the members of the board are elected at the 2010 election, qualify for office, and take office.

(H) Beginning with the 2008‑2009 school year, the committee may make recommendations to each present board concerning attendance zones for a school in the county without being constrained by existing district lines and each board shall consider the recommendations of the committee in determining attendance at schools in the county without being constrained by existing district lines, as defined by Act 155 of 2007. In the event a board creates a new attendance zone that encompasses portions of Districts 2 and 17, a person residing in the new attendance zone may attend a school within that attendance zone without regard to whether the school is located in the district in which the person resides. A school in District 2 or 17 may not bear a financial impact or impose a financial charge if a person attends a school within a new attendance zone but not in the district in which he resides.

~~( )~~(I) If a member of the Sumter Consolidation Transition Committee is dismissed, suspended from his position, demoted, or forced to accept a change in the terms and conditions at his current employment, or if he receives any threats, direct or indirect, in connection with his decisions or actions on behalf of the committee, the member may institute a nonjury civil action against Sumter School District 2 or Sumter School District 17 or their successors for:

(1) reinstatement to his former position;

(2) lost wages from positions of employment other than his service as a member of the Sumter Consolidation Transition Committee;

(3) actual damages;

(4) treble damages;

(5) reasonable attorney’s fees as determined by the court; and

(6) injunctive relief from a change in the terms and conditions of his employment.

This cause of action exists for any such retaliatory action that takes place during a member’s employment or term of service with Sumter School District 2 or 17. The action must be brought in the Court of Common Pleas of Sumter County.

SECTION ~~9~~10. Any local act pertaining to a school district of Sumter County inconsistent with the provisions of this act is repealed as of July 1, 2011, because the General Assembly’s intent is to have this act and the general law constitute the only provisions of law governing the school district of the county.

SECTION ~~10~~11. If a provision of this act is held by a court of competent jurisdiction to be unconstitutional or invalid, the holding will not affect the constitutionality or validity of the remaining portions of this act. The General Assembly hereby declares that it would have passed this act and each and every provision herein irrespective of the fact that a provision of this act may be ~~declare~~ declared unconstitutional, invalid, or otherwise ineffective.”

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

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