COMMITTEE REPORT

May 14, 2009

**S. 607**

Introduced by Senators Hayes, Malloy, Courson, Scott, Knotts, Rankin, Matthews and Lourie

S. Printed 5/14/09--S.

Read the first time March 24, 2009.

**THE COMMITTEE ON EDUCATION**

To whom was referred a Bill (S. 607) to amend the Code of Laws of South Carolina, 1976, so as to enact the “Public School Choice Program Act” by adding Chapter 62 to Title 59 so as to require, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

JOHN E. COURSON for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

See Below

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

Section 59-62-30 requires the Department of Education to, among other things; furnish information to school districts regarding school choice programs, promising practices information, obstacles to implementing quality school choice programs, professional development, and transportation needs. This section is estimated to have minimal fiscal impact which can be absorbed by SDE within existing resources. Section 59-62-40 requiring each school district to convene a school choice committee during FY 2009-10 is estimated to have little or no fiscal impact on the districts.

Costs associated with Section 59-62-50 for FY 2010-11 are contingent on the recommendations of the School Choice committees. As part of the report, these committees must identify the amount of additional funding, if any, needed to implement the interdistrict option. The committee is further encouraged to identify possible funding sources for implementing the identified options. These funding sources and interdistrict options may vary between and among school districts. Additionally, a school district may utilize technical assistance funds to assist in the implementation of school choice plans, if approved by SDE.

Cost associated with Section 59-62-70 is at the General Assembly’s discretion since no specific dollar amount in the aggregate or per student is specified. For comparison purposes proviso 1.64 of the FY 2008-09 Appropriation Act dealing with Early Childhood Education specifies that not more than $185 per student may be used to provide transportation. This figure is $550 if a private provider is providing transportation.

*Approved By:*

Harry Bell

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “PUBLIC SCHOOL CHOICE PROGRAM ACT” BY ADDING CHAPTER 62 TO TITLE 59 SO AS TO REQUIRE THE STATE DEPARTMENT OF EDUCATION TO PROVIDE SCHOOL DISTRICTS WITH INFORMATION CONCERNING SCHOOL CHOICE PROGRAM RESEARCH; TO REQUIRE THE DEPARTMENT TO DEVELOP AN INVENTORY OF AVAILABLE PUBLIC SCHOOL CHOICE OPTIONS AND MAKE THE LIST AVAILABLE TO DISTRICTS AND TO THE GENERAL ASSEMBLY; TO REQUIRE EACH SCHOOL DISTRICT TO CONVENE A SCHOOL CHOICE COMMITTEE, TO DETERMINE THE MEMBERSHIP OF THE COMMITTEE, AND TO DEVELOP A SCHOOL CHOICE OPTION PLAN THAT MUST BE SUBMITTED TO THE DEPARTMENT; TO REQUIRE SCHOOL DISTRICTS BEGINNING WITH THE 2010‑2011 SCHOOL YEAR TO IMPLEMENT THEIR PLANS, AND TO PROVIDE FOR THE FUNDING OF THOSE PLANS; TO REQUIRE THE SCHOOL CHOICE COMMITTEE OF EACH DISTRICT DURING THE 2010‑2011 SCHOOL YEAR TO DETERMINE THE FEASIBILITY OF ESTABLISHING A PARTNERSHIP WITH NEIGHBORING DISTRICTS TO PARTICIPATE IN A VOLUNTARY OPEN ENROLLMENT PROGRAM, TO REQUIRE THE COMMITTEE TO REPORT ITS FINDINGS TO THE DISTRICT, AND TO PROVIDE WHAT THE REPORT MUST INCLUDE; TO REQUIRE DISTRICTS THAT CHOOSE TO PARTICIPATE IN VOLUNTARY OPEN ENROLLMENT PROGRAMS TO SUBMIT INTERDISTRICT AGREEMENTS AND CRITERIA OF THE PROGRAM TO THE DEPARTMENT; TO PROVIDE REQUIREMENTS FOR DISTRICTS THAT CHOOSE TO PARTICIPATE IN VOLUNTARY OPEN ENROLLMENT PROGRAMS; TO REQUIRE EACH DISTRICT TO REPORT TO THE GENERAL ASSEMBLY ON THE TYPES OF CHOICE OPTIONS OFFERED WITHIN THE DISTRICT AND OTHER INFORMATION CONCERNING THOSE OPTIONS; TO PROVIDE FOR FUNDING BY THE GENERAL ASSEMBLY TO OFFSET THE COST OF TRANSPORTATION; TO PROVIDE FOR THE PURPOSE OF THE CHAPTER; AND TO DEFINE CERTAIN TERMS.

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

SECTION 1. Title 59 of the 1976 Code is amended by adding:

“CHAPTER 62

Public School Choice

And Voluntary Open Enrollment Programs

Section 59‑62‑10. (A) There is established a public school choice program within the public school districts of this State.

(B) In establishing this program, it is the objective of the General Assembly to provide a consumer‑driven approach to increase education opportunities that are accountable and accessible to all students regardless of where they may live or their socioeconomic status. It is therefore the intent of the General Assembly that this chapter be construed broadly to maximize parental choice options and student access to public school educational opportunities that are now unavailable to them.

Section 59‑62‑20. As used in this chapter:

(1) ‘School district choice programs’ means a public education delivery system that requires a school district to provide for student programs of choice offered within the district which may include, but not be limited to, public charter schools, virtual school programs, extended day or school year programs, flexible school scheduling programs, Montessori programs, single‑gender programs, learning‑team programs, magnet school programs, arts programs, and school‑within‑a‑school programs, and to provide for school assignments to these programs using the parent‑indicated preferential choice as a significant factor for assigning students within the district.

(2) ‘Open enrollment’ means a public education delivery system that allows a participating school district to make assignments of students residing outside of the students’ district of residence based on a partnership agreement between districts and using the parent‑indicated preferential choice as a significant factor.

(3) ‘District of residence’ means a school district in which the parent of a student resides.

(4) ‘Parent’ means the parent or legal guardian of a student of the State.

Section 59‑62‑30. (A) The State Department of Education shall provide school districts with information on various school choice programs, promising practices information, professional development, assistance in planning for transportation needs, and technical assistance for developing and implementing public school choice programs throughout the State.

(B) A district shall provide information to the department so that the department can conduct and maintain a statewide inventory of public school choice options. The inventory must collect information on choice programs available in districts and choice options parents would like to see implemented in their district of residence. With the information received from the statewide inventory, the department shall compile the results and make them available to the school districts of the State and members of the General Assembly. The department shall maintain a list of school choice options by district and by school level. The list must be made available on the department’s website.

(C) The department shall provide information to all school districts regarding obstacles that have the potential of interfering with the implementation of quality school choice programs and shall make recommendations for overcoming and avoiding those obstacles. The information provided also shall include estimated costs associated with the implementation of various choice options.

Section 59-62-40. During the 2009‑2010 school year, each school district of the State shall convene a school choice committee. The committee shall include, but not be limited to, members representing parents, community and business leaders, teachers, and students. The committee membership shall represent the ethnicity and geographic diversity of the district. With assistance from the department, the school choice committee shall develop an action plan which must be incorporated in the school renewal plan for providing parents and students choice options within the district and must include a timeline and budget proposal for implementation of the identified options. Each district shall submit their choice plans to the department. A district that has a plan currently in place also shall submit its plan to the department.

Section 59‑62‑50. (A) Beginning in the 2010‑2011 school year and thereafter, each school district of the State shall begin implementation of its school choice plan. At a minimum, each district shall begin by providing a choice option for students at the elementary, middle, and high school level. With approval from the department, a district may utilize technical assistance funds provided pursuant to Section 59‑18‑1595 to assist in the implementation of school choice plans.

(B) During the 2010‑2011 school year, each district school choice committee, established pursuant to Section 59‑62‑30(D), and school district administration shall examine the feasibility of establishing a partnership with neighboring districts to participate in a voluntary open enrollment program that would provide for the nontuition‑based movement of students across district lines. Through joint meetings with other district committees, committees shall examine the benefits and barriers to establishing partnerships. Upon completion of the examination, each committee shall report its findings to its district board of trustees. The report must identify at least one possibility for providing education opportunities to students residing outside their district of residence. As a component of the report, the committee also shall identify the amount of additional funding, if any, needed to implement the interdistrict option. Additionally, the committee is encouraged to identify possible funding sources for implementing the identified option.

(C) After receiving and examining the report on open enrollment submitted by the school choice committee, a district that desires to participate in a voluntary open enrollment program shall submit to the department an agreement outlining the district partnerships established for participation in the program and agreed upon program criteria.

(D) A district that chooses to participate shall:

(1) accept students on a nontuition basis;

(2) choose students through a lottery drawing if more students desire to participate than space is available. The lottery drawing must be conducted with the participation of all districts taking part in the program; and

(3) not discriminate on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services.

(E) A district that chooses to participate is not required to:

(1) make alterations in the structure of a requested school;

(2) establish and offer a particular program in a school if the program is not currently offered in the requested school; or

(3) alter or waive established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, or required levels of performance.

Section 59‑62‑60. Each district shall provide information regarding chosen choice options to the department, which in turn shall issue a report to the General Assembly by July 1, 2011. The report shall include, but not be limited to, types of choice options being implemented in each school district, number of students participating in each choice option, number of students unable to participate because of limited availability of a specific district choice option, districts considering participation in a voluntary open enrollment program, and recommended changes to this chapter to include the basis for these recommendations.

Section 59‑62‑70. With an appropriation provided by the General Assembly for this purpose, the department shall provide funding to districts that participate in the public school choice program or the voluntary open enrollment program to offset the cost of transporting students to and from district choice programs and voluntary open enrollment programs.

Section 59‑62‑80. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this chapter is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this chapter, the General Assembly hereby declaring that it would have passed this chapter, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.”

SECTION 2. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑