~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

February 21, 2013

**H. 3229**

Introduced by Reps. Daning and Crosby

S. Printed 2/21/13--H. [SEC 2/22/13 12:23 PM]

Read the first time January 8, 2013.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 3229) to amend the Code of Laws of South Carolina, 1976, by adding Section 59‑5‑170 so as to create the Division of Interscholastic Athletics to serve as the, etc., respectfully

**REPORT:**

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

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Chapter 5, Title 59 of the 1976 Code is amended by adding:

“Section 59‑5‑170. (A) The Office of Interscholastic Athletics is established within the State Department of Education. The office is the sole governing body of athletics for South Carolina public schools.

(B) The Superintendent of Education shall appoint a director to serve as the administrative head of the office. The director must employ staff as necessary to carry out the duties and responsibilities assigned by the office. The director must have prior experience as either a coach or an athletics director at the high school level.

(C)(1) The State Board of Education must promulgate regulations concerning:

(a) administration of the office;

(b) enforcement of applicable rules, regulations, and statutory provisions;

(c) procedures for reaching decisions on all questions and appeals arising from those decisions;

(d) student eligibility requirements for participation in interscholastic athletics;

(e) administration of related athletic activities of schools subject to the jurisdiction of the office;

(f) official rules for interscholastic athletic contests;

(g) contests with schools not subject to the jurisdiction of the office;

(h) outside competition, camps, clinics, drug and alcohol use, unsportsmanlike conduct, and other matters that affect interscholastic athletics;

(i) organization and conduct of statewide interscholastic competitions, regardless of whether the competition can lead to a state championship, and to establish the terms and conditions for these competitions;

(j) the collection of dues and revenues in a manner similar to the South Carolina High School League;

(k) awards; and

(l) other matters the director considers appropriate to enhance interscholastic athletics in this State.

(2) When establishing regulations, the State Board of Education shall ensure a range of sanctions that may be applied to a student, coach, team, program, or school depending upon the seriousness, frequency, and other factors the office considers relevant to a violation of office rules.

(3) The State Board of Education shall promulgate emergency regulations to ensure the continuance of athletic contests pending approval by the General Assembly of regulations promulgated under subsection (A).

(D)(1) A public school that engages in interscholastic athletics or a private school wishing to compete with a public school in interscholastic athletic events:

(a) must submit to and comply with the provisions of this section; and

(b) may not contract with, join, or otherwise associate with the South Carolina High School League.

(2) A private or charter institution that is a member of the office must be afforded all rights and privileges that are granted to other teams in the league. The office shall not expel or deny membership to a private or charter institution based solely on the status of the institution as a private or charter school. A private or charter institution that applies to join the office may not be denied admission based solely on the status of the institution as a private or charter school.

(E)(1) The office shall establish an advisory committee to assist the evaluation by the office of the overall interscholastic athletic program and to make recommendations to the office concerning matters that would enhance interscholastic athletic competition throughout the State. The advisory committee may make recommendations concerning issues of safety, competitiveness, eligibility, academic requirements, participation and practice limitations, residence and attendance areas, transfers, recruiting, and other issues as requested by the office.

(2) The committee must consist of thirteen members appointed by the Superintendent and consisting of:

(a) two citizens not employed by a school;

(b) one public school coach recommended by the South Carolina High School Coaches Association;

(c) one public school coach recommended by the South Carolina Association of Women’s Sports;

(d) one public school basketball coach recommended by the South Carolina Basketball Coaches Association;

(e) one public school football coach recommended by the South Carolina Football Coaches Association;

(f) one public school baseball coach recommended by the South Carolina Baseball Coaches Association;

(g) one public school cheer coach recommended by the South Carolina Cheer Coaches Association;

(h) one public school track and cross country coach recommended by the South Carolina Track and Cross Country Coaches Association;

(i) one public school athletic trainer recommended by the South Carolina Athletic Trainers Association;

(j) one public school athletics director recommended by the South Carolina Association of Athletics Directors;

(k) one public school principal recommended by the South Carolina Association for School Administrators; and

(l) one member recommended by the South Carolina Independent Schools Association.

(3) The members of the committee shall serve without compensation, per diem, or travel expenses.

(4) Each member of the committee serves at the pleasure of the Superintendent of Education.

(5) A person may not serve concurrently as a member of the advisory committee and the committee on appeals. A person who has served on the advisory committee may not serve on the committee on appeals during the five year period immediately following his tenure on the advisory committee, and a person who has served on the committee on appeals may not serve on the advisory committee for a period of five years immediately following his tenure on the committee on appeals.

(F)(1) The office shall establish a procedure to ensure each student, school, or coach may appeal an adverse ruling of the office on an alleged violation of this chapter and be afforded due process during the pendency and determination of this appeal.

(2) The procedure required in item (1) must require:

(a) the creation of a thirteen‑member committee on appeals to be constituted as follows;

(i) seven members of the general public with one appointed from each congressional district appointed by the State Superintendent of Education and one of whom the Superintendent shall designate as chair of the committee;

(ii) three people currently employed as athletics coaches or athletics directors in a public high school in this State with one appointed by the Governor, one by the Speaker of the House of Representatives, and one by the President Pro Tempore of the Senate who shall serve at the pleasure of the appointing officials;

(iii) one member who is a public high school principal appointed by the State Superintendent of Education;

(iv) one member who is a private school principal or headmaster appointed by the State Superintendent of Education; and

(v) one member of the business community appointed by the South Carolina Chamber of Commerce;

(b) the members of the committee shall receive per diem and mileage to be paid for from dues collected by the office;

(c) each member of the committee who is appointed by the Superintendent serves at the pleasure of the Superintendent of Education;

(d) an appeal of a decision made by the director must be made to the committee on appeals within ninety days after the ruling being appealed is issued;

(e) the committee on appeals must hear the appeal and render a written decision on the matter; and

(f) the decision of the committee on appeals must constitute the final action of the agency on the matter, and this action may be subsequently appealed pursuant to the Administrative Procedures Act. The Administrative Law Court must reviewed an appeal brought under this section on an expedited basis.

(3) The office shall develop an emergency appeals procedure to use if the normal appeals process would affect the participation of a student, team, program, or school in an athletic event.”

SECTION 2. Section 59‑39‑160 of the 1976 Code is amended to read:

“Section 59‑39‑160. (A) To participate in interscholastic activities, students in grades nine through twelve must achieve an overall passing average and either:

(1) pass at least four academic courses, including each unit the student takes that is required for graduation; or

(2) pass a total of five academic courses. Students must satisfy these conditions in the semester preceding participation in the interscholastic activity, if the interscholastic activity occurs completely within one semester or in the semester preceding the first semester of participation in an interscholastic activity if the interscholastic activity occurs over two consecutive semesters and is under the jurisdiction of the ~~South Carolina High School League~~ Office of Interscholastic Athletics.

(B) Academic courses are those courses of instruction for which credit toward high school graduation is given. These may be required or approved electives. ~~All activities currently under the jurisdiction of the South Carolina High School League remain in effect.~~ The monitoring of all other interscholastic activities is the responsibility of the local boards of trustees. Those students diagnosed as handicapped in accordance with the criteria established by the State Board of Education and satisfying the requirements of their Individual Education Plan (IEP) as required by Public Law 94‑142 are permitted to participate in interscholastic activities. A local school board of trustees may impose more stringent standards than those contained in this section for participation in interscholastic activities by students in grades nine through twelve.

(C) The State Board of Education may ~~grant a waiver of~~ waive the requirements of this section~~. This waiver may be granted only~~ when it receives a written statement from a school district superintendent and athletic director ~~has been received~~ stating that a student’s ineligibility to participate in interscholastic activities is due to misinformation concerning eligibility requirements being provided by district personnel. The State Board of Education shall establish guidelines to administer this section.”

SECTION 3. This act takes effect July 1, 2013. /

Renumber sections to conform.

Amend title to conform.

PHILLIP D. OWENS for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

ESTIMATED FISCAL IMPACT ON GENERAL FUND EXPENDITURES:

A Cost to the General Fund (See Below)

ESTIMATED FISCAL IMPACT ON FEDERAL & OTHER FUND EXPENDITURES:

$0 (No additional expenditures or savings are expected)

**EXPLANATION OF IMPACT:**

The South Carolina Department of Education (SCDE) reports they would require 6.00 new FTEs and $514,400 in recurring general funds for salaries, fringe, and other operating expenses to establish the Division of Interscholastic Athletics. This staffing is comparable to what the High School League currently employs to do the same function. The staffing would consist of 1.0 Director, 3.0 Education Associates, 1.0 Program Coordinator, and 1.0 Administrative Specialist.

**LOCAL GOVERNMENT IMPACT:**

The SCDE assumes no fiscal impact to school districts due to no express authorization to collect membership dues from school districts.

*Approved By:*

Brenda Hart

Office of State Budget

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑5‑170 SO AS TO CREATE THE DIVISION OF INTERSCHOLASTIC ATHLETICS TO SERVE AS THE SOLE GOVERNING BODY OF ATHLETICS FOR SOUTH CAROLINA PUBLIC SCHOOLS, TO PROVIDE FOR A DIRECTOR OF THE DIVISION APPOINTED BY THE SUPERINTENDENT OF EDUCATION, TO PROVIDE MATTERS ABOUT WHICH THE DIVISION SHALL PROMULGATE REGULATIONS AND FOR WHICH THE DIVISION MAY ISSUE EMERGENCY REGULATIONS, TO PROVIDE FOR THE CREATION OF AN ADVISORY COMMITTEE TO ASSIST THE DIVISION IN EVALUATING THE OVERALL INTERSCHOLASTIC ATHLETIC PROGRAM AND RELATED RECOMMENDATIONS, TO PROVIDE FOR THE COMPOSITION OF THE COMMITTEE, AND TO PROVIDE MEMBERS OF THE COMMITTEE SERVE AT THE PLEASURE OF THE SUPERINTENDENT OF EDUCATION AND MAY NOT RECEIVE COMPENSATION; AND TO AMEND SECTION 59‑39‑160, RELATING TO REQUIREMENTS FOR PARTICIPATION IN INTERSCHOLASTIC ACTIVITIES, SO AS TO MAKE CONFORMING CHANGES.

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

SECTION 1. Chapter 5, Title 59 of the 1976 Code is amended by adding:

“Section 59‑5‑170. (A) The Division of Interscholastic Athletics is established within the State Department of Education. The division is the sole governing body of athletics for South Carolina public schools.

(B) The Superintendent of Education shall appoint a director to serve as the administrative head of the division. The director must employ staff as necessary to carry out the duties and responsibilities assigned by the office.

(C)(1) The division must promulgate regulations concerning:

(a) administration of the division;

(b) enforcement of applicable rules, regulations, and statutory provisions;

(c) procedures for reaching decisions on all questions and appeals arising from those decisions;

(d) student eligibility requirements for participation in interscholastic athletics;

(e) administration of related athletic activities of schools subject to the jurisdiction of the division;

(f) official rules for interscholastic athletic contests;

(g) contests with schools not subject to the jurisdiction of the division;

(h) outside competition, camps, clinics, drug and alcohol use, unsportsmanlike conduct, and other matters that affect interscholastic athletics;

(i) organization and conduct of statewide interscholastic competitions, regardless of whether the competition can lead to a state championship, and to establish the terms and conditions for these competitions;

(j) awards; and

(k) other matters the director considers appropriate to enhance interscholastic athletics in this State.

(2) The division shall promulgate emergency regulations to ensure the continuance of athletic contests pending approval by the General Assembly of regulations promulgated under subsection (A).

(D) A public school that engages in interscholastic athletics or a private school wishing to compete with a public school in interscholastic athletic events:

(1) must submit to and comply with the provisions of this section; and

(2) may not contract with, join, or otherwise associate with the South Carolina High School League.

(E)(1) The division shall establish an advisory committee to assist the evaluation by the division of the overall interscholastic athletic program and to make recommendations to the division concerning matters that would enhance interscholastic athletic competition throughout the State. The advisory committee may make recommendations concerning issues of safety, competitiveness, eligibility, academic requirements, participation and practice limitations, residence and attendance areas, transfers, recruiting, and other issues as requested by the division.

(2) The committee must consist of fifteen members appointed by the Superintendent and consisting of:

(a) two citizens not employed by a school;

(b) one public school coach recommended by the South Carolina High School Coaches Association;

(c) one public school coach recommended by the South Carolina Association of Women’s Sports;

(d) one public school basketball coach recommended by the South Carolina Basketball Coaches Association;

(e) one public school football coach recommended by the South Carolina Football Coaches Association;

(f) one public school baseball coach recommended by the South Carolina Baseball Coaches Association;

(g) one public school cheer coach recommended by the South Carolina Cheer Coaches Association;

(h) one public school track and cross country coach recommended by the South Carolina Track and Cross Country Coaches Association;

(i) one public school athletic trainer recommended by the South Carolina Athletic Trainers Association;

(j) one public school athletics director recommended by the South Carolina Association of Athletics Directors;

(k) one public school principal recommended by the South Carolina Association for School Administrators; and

(l) one member recommended by the South Carolina Independent Schools Association.

(3) The members of the committee shall serve without compensation, per diem, or travel expenses.

(4) Each member of the committee serves at the pleasure of the Superintendent of Education.

(F)(1) The division shall establish a procedure to ensure each student, school, or coach may appeal an adverse ruling of the division on an alleged violation of this chapter and be afforded due process during the pendency and determination of this appeal.

(2) The procedure required in item (1) must require:

(a) the creation of a three‑member committee on appeals established by the division and appointed by the Superintendent of Education;

(b) an initial appeal be made to the committee on appeals within ninety days after the ruling of the division being appealed;

(c) the committee on appeals must hear the appeal and render a written advisory decision on the matter;

(d) the division director shall review the advisory decision of the committee and determine whether to grant the appeal and render a final determination on the merits of the appeal; and

(e) a final determination by the director under subitem (d) must constitute the final action of the agency on the matter, and this action may be subsequently appealed pursuant to the Administrative Procedures Act. The Administrative Law Court must review an appeal brought under this section on an expedited basis.”

SECTION 2. Section 59‑39‑160 of the 1976 Code is amended to read:

“Section 59‑39‑160. (A) To participate in interscholastic activities, students in grades nine through twelve must achieve an overall passing average and either:

(1) pass at least four academic courses, including each unit the student takes that is required for graduation; or

(2) pass a total of five academic courses. Students must satisfy these conditions in the semester preceding participation in the interscholastic activity, if the interscholastic activity occurs completely within one semester or in the semester preceding the first semester of participation in an interscholastic activity if the interscholastic activity occurs over two consecutive semesters and is under the jurisdiction of the South Carolina High School League.

(B) Academic courses are those courses of instruction for which credit toward high school graduation is given. These may be required or approved electives. ~~All activities currently under the jurisdiction of the South Carolina High School League remain in effect.~~ The monitoring of all other interscholastic activities is the responsibility of the local boards of trustees. Those students diagnosed as handicapped in accordance with the criteria established by the State Board of Education and satisfying the requirements of their Individual Education Plan (IEP) as required by Public Law 94‑142 are permitted to participate in interscholastic activities. A local school board of trustees may impose more stringent standards than those contained in this section for participation in interscholastic activities by students in grades nine through twelve.

(C) The State Board of Education may ~~grant a waiver of~~ waive the requirements of this section~~. This waiver may be granted only~~ when it receives a written statement from a school district superintendent and athletic director ~~has been received~~ stating that a student’s ineligibility to participate in interscholastic activities is due to misinformation concerning eligibility requirements being provided by district personnel. The State Board of Education shall establish guidelines to administer this section.”

SECTION 3. This act takes effect July 1, 2013.

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