AS PASSED BY THE SENATE

September 15, 2020

**S. 1121**

Introduced by Senators Hutto and M.B. Matthews

L. Printed 9/15/20--S.

Read the first time February 20, 2020.

**A** **BILL**

TO CONSOLIDATE HAMPTON COUNTY SCHOOL DISTRICT NO. 1 AND HAMPTON COUNTY SCHOOL DISTRICT NO. 2 INTO ONE SCHOOL DISTRICT TO BE KNOWN AS THE HAMPTON COUNTY SCHOOL DISTRICT; TO ABOLISH HAMPTON COUNTY SCHOOL DISTRICT NO. 1 AND HAMPTON COUNTY SCHOOL DISTRICT NO. 2 ON JULY 1, 2021; TO PROVIDE THAT THE HAMPTON COUNTY SCHOOL DISTRICT MUST BE GOVERNED BY A BOARD OF TRUSTEES CONSISTING OF SEVEN MEMBERS, WHICH INITIALLY MUST BE APPOINTED BY THE HAMPTON COUNTY LEGISLATIVE DELEGATION, AND BEGINNING IN 2022, THE SEVEN MEMBERS OF THE HAMPTON COUNTY SCHOOL DISTRICT BOARD OF TRUSTEES MUST BE ELECTED AT LARGE BY A PLURALITY VOTE OF THE QUALIFIED ELECTORS RESIDING IN HAMPTON COUNTY IN NONPARTISAN ELECTIONS TO BE CONDUCTED AT THE SAME TIME AS THE GENERAL ELECTION AND EVERY TWO OR FOUR YEARS THEREAFTER, EXCEPT AS PROVIDED IN THIS ACT TO STAGGER THE MEMBERS’ TERMS; TO ESTABLISH THE BOARD’S POWERS, DUTIES, AND RESPONSIBILITIES; TO PROVIDE THAT THE DISTRICT 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; TO INCLUDE INTERIM MILLAGE PROVISIONS FOR YEARS 2021 AND 2022, AND TO PROVIDE THAT BEGINNING IN 2023, THE GOVERNING BODY OF HAMPTON COUNTY SHALL APPROVE AN ANNUAL TAX LEVY IN ORDER TO OBTAIN FUNDS FOR SCHOOL PURPOSES AS PROVIDED IN THIS ACT.

Amend Title To Conform

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

SECTION 1. (A) Notwithstanding the provisions of Act 286 of 1986, Act 141 of 2007, or of subsequent acts of the General Assembly amending these acts, or of any other provision of law:

(1) on the effective date of this act, Hampton County School District No. 1 and Hampton County School District No. 2 (the two present school districts) shall commence all prudent and essential preparations necessary to achieve an efficient and well‑organized consolidation of the two districts;

(2) effective July 1, 2021, Hampton County School District No. 1 and Hampton County School District No. 2 must be abolished. The powers and duties of the two present school districts’ respective boards of trustees must be devolved on the board of trustees of the consolidated school district to be known as the Hampton County School District; and

(3) the first audit report that the Hampton County School District is required to provide to the State Department of Education pursuant to Section 59‑17‑100 must be submitted to the department on or before December 1, 2022.

(B) In order to facilitate the efficient consolidation of the two present school districts, the members of the districts’ respective boards of trustees and their superintendents, administrators, and personnel shall cooperate fully with the Hampton County Legislative Delegation and delegation staff, the initial nine-member appointed board of trustees for the Hampton County School District, and the South Carolina Department of Education officials assisting with the consolidation. In addition, after the effective date of this act, the two present school districts may not:

(1) create new full‑time or part‑time district‑level positions;

(2) approve, award, or authorize any salary increases, raises, bonuses, or severance pay or separation incentives of any type;

(3) create or incur new bonded indebtedness;

(4) approve requests for out-of-state travel or requests for reimbursement for out of state travel; or

(5) make any significant district purchases unless the nine-member Hampton County School District Board of Trustees created pursuant to SECTION 2 of this act has approved the purchase. For purposes of this item, “significant district purchase” means any district purchase in excess of twenty-five thousand dollars.

(C) Any current district‑level administrator for either of the two present school districts whose position will be eliminated due to the creation of an equivalent position in the consolidated district has priority consideration for the equivalent position if the administrator remains in his role at the time of hiring for the consolidated district and desires to be considered for the new position. Priority consideration is limited to review of an application for employment, or an interview; however, priority consideration does not mean that a position with the consolidated district must be offered. For purposes of this subsection, “current” means as of the effective date of this act, and “district level administrator” includes superintendents, chief academic officers, associate superintendents, assistant superintendents, and district directors. Position equivalency must be determined based on the position’s title and responsibilities.

SECTION 2. (A) The Hampton County School District must be governed initially by a board of trustees of nine members to be appointed by a majority of the Hampton County Legislative Delegation. The nine members initially appointed by the legislative delegation after the effective date of this act must be qualified electors of Hampton County, and these appointed members shall serve on the Hampton County School District Board of Trustees until four trustees have been duly elected and qualify in school district elections held at the same time as the 2022 general election pursuant to the provisions of this section. These four trustees must be elected from defined single-member election districts to be established in subsequent legislation enacted after the release of pertinent demographic data obtained in the 2020 decennial census, but prior to the opening of the filing period for the 2022 school district elections.

(B)(1) Beginning in 2022, four members of the Hampton County School District Board of Trustees must be elected from single member districts provided for by the General Assembly in nonpartisan elections to be conducted at the same time as the general election and every four years thereafter, except as may be provided to stagger the members’ terms. The four candidates elected in the 2022 school district elections must be elected from election districts 1, 3, 5, and 7 and shall serve four-year terms and until their successors are elected and qualify. Each of these four members and their successors must be a qualified elector of the election district from which he is elected. Beginning in 2024, three additional members of the Hampton County School District Board of Trustees must be elected from election districts 2, 4, and 6 in nonpartisan elections to be conducted at the same time as the general election and every four years thereafter, except as may be provided to stagger the members’ terms. The three candidates elected in the 2024 school district elections shall serve four-year terms and until their successors are elected and qualify. Each of these three members and their successors must be a qualified elector of the election district from which he is elected. In order to provide continuity of experienced leadership to the district, when the four duly elected trustees from election districts 1, 3, 5, and 7 take office following the 2022 school district elections, a majority of the Hampton County Legislative Delegation shall select three members from the initial nine-member appointed board of trustees to serve as school district trustees together with the four elected members, and the terms of the remaining appointed trustees not selected to serve with the four elected members must be terminated. The three members of the initial nine-member appointed board selected to serve alongside the four elected members shall serve until their successors are elected in school district elections conducted at the same time as the 2024 general election and qualify.

(2)(a) The four trustees elected from districts 1, 3, 5, and 7 in the 2022 school district elections shall serve four-year terms and until their successors are elected and qualify, and the successors to these members must be elected in nonpartisan school district elections to be conducted at the same time as the 2026 general election. The trustees elected in the 2026 school district election and their successors shall serve four‑year terms and until their successors are elected and qualify.

(b) Pursuant to item (1) of this subsection, the three members of the initial nine-member appointed board selected by the Hampton County Legislative Delegation to serve alongside the four elected members shall serve until their successors are elected from districts 2, 4, and 6 in school district elections conducted at the same time as the 2024 general election and qualify. At such time, the terms of the three appointed members shall terminate. The three trustees elected from districts 2, 4, and 6 in the 2024 school district elections and their successors shall serve four‑year terms and until their successors are elected and qualify. Thereafter, members of the Hampton County School District Board of Trustees must be elected in nonpartisan school district elections to be conducted at the same time as the general election for terms of four years and until their successors are elected and qualify.

(3) In the event of a vacancy on the board occurring for any reason other than the expiration of a term, the vacancy must be filled for the remainder of the unexpired term through appointment by the Hampton County Legislative Delegation.

(C) All persons desiring to qualify as a candidate for the Hampton County School District Board of Trustees shall file written notice of candidacy with the Hampton County Board of Voter Registration and Elections on forms furnished by the board. The filing period shall open at 12:00 p.m. on August first or, if August first falls on Saturday or Sunday, then 12:00 p.m. on the following Monday and shall run until 12:00 p.m. on August fifteenth or, if August fifteenth falls on Saturday or Sunday, no later than 12:00 p.m. on the following Monday. This notice of candidacy must be a sworn statement and shall include the candidate’s name, age, address, voting precinct, period of residence in the county, and other information that the board requires. The Hampton County Board of Voter Registration and Elections shall conduct and supervise the elections for members of the Hampton County School District Board of Trustees in the manner governed by the election laws of this State, mutatis mutandis. The board 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 board shall publish notices of the elections pursuant to Section 7‑13‑35. The results of the elections must be determined by the nonpartisan plurality method contained in Section 5‑15‑61. The members of the Hampton County School District Board of Trustees elected in these nonpartisan elections shall take office one week following certification of their election pursuant to Section 59‑19‑315.

SECTION 3. (A) The members of the Hampton County School District Board of Trustees shall elect a chairman and other officers they consider necessary for terms that are coterminous with their appointed or elected terms of office.

(B) The Hampton County School District Board of Trustees has the power, duty, and responsibility provided by law including to:

(1) employ a superintendent as the chief executive officer;

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

(3) adopt the annual school district budget;

(4) inquire into the conduct of an office, department, or agency of the school district;

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

(6) 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;

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

(8) cooperate to establish and maintain educational consortia;

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

(10) set by majority vote of the board a salary that each member shall receive for attending meetings of the board, which may not exceed four hundred fifty dollars per month.

SECTION 4. The district 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 appointed 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 that 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 that seem desirable;

(5) perform other duties prescribed by law or required of him by the board not inconsistent with the provisions of law; and

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

SECTION 5. (A)(1) For purposes of determining the 2021 property tax millage levy of the Hampton County School District upon its creation, the millage levy for the district must be determined and calculated by the Department of Revenue based on the 2020 levy of the two present school districts and the value of a mill in each district. Thereafter, the millage levy for the year 2022, 2023, and 2024 must be the millage levy for the previous year. To the allowed millage levy for 2021, 2022, 2023, and 2024 may be added any millage determined by the county governing body necessary to comply with educational mandates imposed by federal or state law.

(2) The provisions of this subsection apply for school millages set for years 2022, 2023, and 2024.

(B) Beginning in 2025, in order to obtain funds for school purposes the board of trustees is authorized to impose an annual tax levy upon approval of the county governing body, exclusive of any millage imposed for bond debt service. Upon certification to the county auditor of the tax levy to be imposed, the auditor shall levy and the county treasurer shall collect the millage so certified upon all taxable property in the district. Upon approval of the county governing body, the consolidated school district may raise its millage by no more than two mills over that levied for the previous year, in addition to any millage needed to adjust for the EFA inflation factor and sufficient to meet the requirements of Section 59‑21‑1030. An increase above this two mills for operations may be levied only after a majority of the registered electors of the district vote in favor of the millage increase in a referendum called by the county governing body and conducted by the county election commission at the same time as the general election. To the extent the provisions of this section relating to increases in school millages conflict with the provisions of Section 6‑1‑320, relating to the millage rate increase limitation, the provisions of Section 6‑1‑320 control.

SECTION 6. (A)(1) On July 1, 2021, the assets and liabilities of Hampton County School District No. 1 and Hampton County School District No. 2 must be transferred to the Hampton County School District. The records and employees of the two present school districts must be transferred to and, if applicable, assumed by the consolidated school district.

(2) Any funds under paragraph 1.88(A), Part I(B) of Act 91 of 2019 to support school district consolidation and related purposes in certain specified school districts, which have been distributed to or which are to be made available to the two present school districts must be transferred to or made available to the Hampton County School District to be used for the same purposes.

(B) The constitutional debt limitation on the issuance of general obligation bonds applicable to the Hampton County School 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 the present school districts.

(C) During the transition period, beginning on the effective date of this act to July 1, 2021, no new general obligation bonds may be issued against the constitutional debt limitation of the two present school districts, except in the case of an emergency. If new general obligation bonds are issued, then the board of trustees of the issuing school district must adopt an ordinance declaring the emergency and specifying the necessity of the issue.

SECTION 7. (A) Hampton County School District No. 1 and Hampton County School District No. 2 are abolished on July 1, 2021, at which time the Hampton County 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 will expire on this date. However, the members of the Hampton County School District Board of Trustees appointed after the effective date of this act shall take office on the date they take the oath of office. From this date and until July 1, 2021, the boards shall organize, begin planning for the changeover to the consolidated district, enter into contracts to effectuate these purposes, and perform other related matters, except that the responsibility and authority to manage the schools of the two present school districts rests solely with the individual boards for each of the two present school districts until July 1, 2021, and the appointed consolidated board of trustees may not interfere with this authority.

(B) Funding for the activities of the appointed consolidated board of trustees, from the date the members assume office until July 1, 2021, must be paid from funds provided to the Hampton County School District by the State Department of Education for this purpose.

(C)(1) After the effective date of this act, a member of one of the two present school districts’ governing boards may:

(a) be appointed to the Hampton County School District Board of Trustees pursuant to the provisions of SECTION 2 of this act; or

(b) seek election to the Hampton County School District Board of Trustees.

(2) If a member of one of the present boards is either appointed or elected to the Hampton County School District Board of Trustees pursuant to item (1):

(a) prior to assuming his new duties on the consolidated school district board of trustees, and if his term on one of the present boards has not otherwise expired, he must first resign as a member of the present board; and

(b) notwithstanding another provision of law, the vacancy on the present board must be filled for the remainder of the unexpired term by appointment of the Hampton County Legislative Delegation.

SECTION 8. All local acts concerning Hampton County School District No. 1 and Hampton County School District No. 2 inconsistent with the provisions of this act are repealed as of July 1, 2021, it being the intent of the General Assembly to have this act and the general law be the only provisions of law governing the Hampton County School District.

SECTION 9. If any provision of this act for any reason is held by a court of competent jurisdiction to be unconstitutional or invalid, that holding shall not affect the constitutionality or validity of the remaining portions of this act. The General Assembly declares that it would have passed this act and each and every provision in it, irrespective of the fact that any one or more provisions of it may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 10. This act takes effect thirty days after approval by the Governor.

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