~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 3, 2019

**H. 3757**

Introduced by Reps. Lucas, Collins and Calhoon

S. Printed 4/3/19--H.

Read the first time January 24, 2019.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (H. 3757) to amend the Code of Laws of South Carolina, 1976, by adding Section 13‑1‑2040 so as to provide definitions, to establish the Workforce and Education Data, etc., respectfully

**REPORT:**

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

Amend the bill further, as and if amended, SECTION 1, page 3, by striking Section 13‑1‑2040(C)(5) and inserting:

/ (5) All information disseminated by partner agencies to the office, committee, or external stakeholders must conform to state and federal privacy, security, and data breach laws and regulations./

Amend the bill further, as and if amended, SECTION 1, page 5, by striking Section 13‑1‑2040(F)(2) and inserting:

/ (F)(2) The chairman of the committee, in consultation with the executive director of the office, shall notify the Governor’s Office immediately in the event of any actual, probable, or reasonably suspected breach of security or any unauthorized access to or acquisition, use, loss, destruction, compromise, alteration, or disclosure of any information under the oversight of the WEDOC. If the chairman is not available, the executive director of the office shall inform the Governor’s Office. If such a security breach or violation of data integrity is confirmed, the Governor shall take action to halt all data activity related to the WEDOC until the issue is resolved. The chairman of the committee or the executive director of the office shall notify the committee of the breach and work with the Governor’s Office to provide status reports to committee members until appropriate measures have been taken to the satisfaction of the chairman and the Governor to resolve the issue, at which point the Governor shall allow the data activity to resume. /

Amend the bill further, as and if amended, by striking SECTION 2 and inserting:

/ SECTION 2. Section 13‑1‑2030 of the 1976 Code is amended to read:

“Section 13‑1‑2030(A) There is established the ‘Coordinating Council for Workforce Development’ which is created to engage in discussions, collaboration, and information sharing concerning the state’s ability to prepare and train workers to meet current and future workforce needs. The coordinating council ~~shall~~ must be comprised of ~~the following members~~:

(1) the Secretary of the Department of Commerce ~~or his designee~~;

(2) the State Superintendent of Education ~~or his designee~~;

(3) the Executive Director of the State Board for Technical and Comprehensive Education ~~or his designee~~;

(4) the Executive Director of the Department of Employment and Workforce ~~or his designee~~;

(5) the Executive Director of the Commission on Higher Education ~~or his designee~~;

(6) the president or provost of a research university who ~~shall be~~ is selected by the presidents of the research universities;

(7) the president or provost of a four‑year college or university who ~~shall be~~ is selected by the presidents of the four‑year universities;

(8) the president of a technical college who shall be appointed by the Chairman of the State Board for Technical and Comprehensive Education;

(9) ~~a person~~ the following members appointed by the state Superintendent of Education who ~~has particularized~~ haveexpertise regarding Chapter 59, Title 59, the South Carolina Education and Economic Development Act:

(a) a school district superintendent;

(b) a school counselor; and

(c) a career and technology education director; ~~and~~

(10) ~~a representative~~ two representatives from the business community appointed by the ~~President of the South Carolina Chamber of Commerce~~ Governor, who have professional expertise in economic development and workforce issues;

(11) a person appointed by the Chairman of the House Education and Public Works Committee; and

(12) a person appointed by the Chairman of the Senate Education Committee.

(B)(1) The coordinating council shall:

(a) facilitate and coordinate the development of a unified, statewide workforce plan that utilizes longitudinal data and analysis to identify statewide workforce priorities and create measurable, time‑sensitive metrics in which all workforce pipeline stakeholders including, but not limited to, education and workforce boards, councils, and partner representatives, participate. The statewide workforce plan must ensure that federal and state requirements are met and agency constituents remain served. The plan also must establish standardized education and workforce terminology and definitions to be used across all agencies and sectors. The plan must identify at least two but not more than four goals to be accomplished in less than four years and update those goals every five years;

(b) advise appropriate agencies and governing boards to ensure the components of Chapter 59, Title 59, are implemented with fidelity to provide a better prepared workforce, student success in postsecondary education, and enhanced coordination between K‑12, higher education, and employers. The council shall review accountability and performance measures for implementation of this article and make recommendations for the promulgation of regulations to carry out its provisions including, but not limited to, enforcement procedures, which may include monitoring and auditing functions, and addressing consequences for noncompliance;

(c) utilize longitudinal data and analysis to develop a method for identifying and addressing long‑term workforce needs and make evidence‑based recommendations to the General Assembly;

~~(a)~~(d) develop and implement procedures for sharing information and coordinating efforts among stakeholders to prepare the state’s current and emerging workforce to meet the needs of the state’s economy~~. The primary workforce focus of the council shall be on persons over age twenty one~~;

~~(b)~~(e) make recommendations to the General Assembly concerning matters related to workforce development that exceed the council members’ agencies’ scope of authority to implement and legislation is required;

~~(c)~~(f) recommend, to the General Assembly, programs intended to increase student access to and incentivize workforce training within state training programs or through programs offered by businesses through scholarships, grants, loans, tax credits, or other programs documented to be effective in addressing current and future workforce needs;

~~(d)~~ ~~develop a method for identifying and addressing long‑term workforce needs;~~

~~(e)~~(g) conduct an ongoing inventory of existing workforce programs to identify duplications among and within the programs and identify ineffective programs. The council may make recommendations concerning the appropriate actions necessary to eliminate duplication, improvements to ineffective programs so that the programs can achieve the desired result, or the elimination of programs that no longer meet workforce needs;and

~~(f)~~(h) submit an annual progress report to the Governor and the General Assembly, by ~~July~~ September first of each fiscal year, concerning the actions taken by the council during the previous fiscal year, and any recommendations for legislation or agency action. The council may submit additional reports on an ongoing basis as deemed necessary by the council chairman.

(2) The coordinating council may create subcommittees or advisory groups comprised of community or state or local government stakeholders to assist the council in carrying out the council’s duties as contained in item (1).

(C) The Secretary of the Department of Commerce ~~or his designee to the coordinating council shall be~~is the coordinating council’s chairman.

(D) The Department of Education, the Commission on Higher Education, the Department of Commerce, and the State Board for Technical and Comprehensive Education shall provide staff for the coordinating council.” /

Amend the bill further, as and if amended, by adding appropriately numbered SECTIONS at the end to read:

/ SECTION \_\_\_\_. Section 59‑59‑170 of the 1976 Code is repealed.

SECTION \_\_\_\_. The Code Commissioner is directed to change or correct all references to the “Education and Economic Development Coordinating Council” to the “Coordinating Council for Workforce Development.” References to the Education and Economic Development Coordinating Council in the 1976 Code or other provisions of law are considered to be and must be construed to mean the “Coordinating Council for Workforce Development.”/

Renumber sections to conform.

Amend title to conform.

MERITA A. ALLISON for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 24, 2019**

**State Expenditure**

**Section 1.** This bill establishes the Workforce and Education Data Oversight Committee (WEDOC) and specifies the responsibilities and objectives of the committee. The WEDOC is to support the mission of the Coordinating Council for Workforce Development.

The WEDOC is comprised of ten members as follows:

 the Secretary of the Department of Commerce;

 the State Superintendent of Education;

 the Executive Director of the State Board for Technical and Comprehensive Education;

 the Executive Director of the Department of Employment and Workforce;

 the Executive Director of the Commission on Higher Education;

 the president or provost of a research university, currently serving on the Coordinating Council for Workforce Development, who is selected by the presidents of the research universities;

 the president or provost of a four-year college or university, currently serving on the Coordinating Council for Workforce Development, who is selected by the presidents of the four-year universities;

 the president of a technical college, currently serving on the Coordinating Council for Workforce Development (Coordinating Council), who is appointed by the Chairman of the State Board for Technical and Comprehensive Education;

 a person appointed by the Superintendent of Education, currently serving on the Coordinating Council for Workforce Development, who has particularized expertise regarding Chapter 59, Title 59, the South Carolina Education and Economic Development Act; and

 a representative from the business community appointed by the Governor upon recommendation of the South Carolina Chamber of Commerce, provided that the recommendation does not require membership in such organization.

The WEDOC, working in conjunction with RFA, is directed to:

 organize the data needed to achieve the objectives of the Coordinating Council;

 generate timely and accurate information and reports about student progress and outcomes over time;

 work with state agencies and other entities to develop and implement appropriate policies and procedures concerning data quality, integrity, transparency, security and confidentially; and

 coordinate the provision and delivery of data to ensure that research project timelines and deliverables to stakeholders are met.

The WEDOC is to oversee the collection, use, and linking of data as necessary. RFA is permitted to hire staff to administer the responsibilities and ensure compliance with statutory, regulatory, and other obligations. The bill specifies that the WEDOC and RFA must evaluate privacy risks, security risks, compliance obligations, and financial obligations and implement processes to ensure compliance with statutory, regulatory, and other obligations. All information disseminated must conform to state and federal privacy, security, and data breach laws and regulations. RFA, with the consent of the WEDOC, is permitted to promulgate regulations to formalize the process to collect, use, secure, analyze, and generate reports on the data overseen by the committee.

The Office of First Steps to School Readiness, the Department of Education, the Commission on Higher Education, the Department of Social Services, the Technical College System, the Department of Commerce, the Department of Employment and Workforce, the Education Oversight Committee, and other agencies of the state, as considered necessary by the General Assembly, that collect relevant data related to educational and workforce outcomes are required to submit that data to RFA in a timely manner upon the development of the oversight requirements of the bill. The bill further specifies that the data submitted to RFA under the bill remains under the ownership and direction of the agency submitting the data and may only be used for the purposes specified unless the agency that submitted the data consents to additional use.

The Commission on Higher Education, the Department of Education, the Department of Social Services, the Education Oversight Committee, the Office of First Steps, and the State Board of Technical and Comprehensive Education do not expect the bill to impact agency expenditures. RFA currently receives data from the Department of Employment and Workforce that is expected to meet the requirements of the bill and not require additional expenditures.

The Department of Commerce expects that the requirements of the bill, including providing data and providing support to the WEDOC, can be accomplished with existing staff and resources.

RFA expects to need one FTE to manage and analyze the data related to the objective of the WEDOC at an annual cost of approximately $78,000 for salary and fringe.  Additional operating costs for equipment needs for the new FTE and other expenses are expected to total $53,000 annually.  In total, RFA anticipates the bill will require additional general fund expenditures of $131,000 beginning in FY 2019-20.

However, the bill provides a broad perspective regarding the purview of the WEDOC and does not specify the data elements that will be required. As a result, the agencies required to provide data and support for the committee noted that the bill is not expected to impact agency expenditures to the extent that the data exists, and the agencies can manage the requests with existing resources. The responding agencies expressed that the anticipated fiscal impact is contingent upon this assumption. If the WEDOC’s requests are expansive, existing staff and resources may not be sufficient to accomplish the requirements of the bill.

**Section 2.** This section of the bill amends the membership of the Coordinating Council for Workforce Development by removing the option for members to appoint a designee to serve on the council. The section further amends the responsibilities of the council by eliminating the reference that the workforce focus is on persons over age twenty-one. These changes are not expected to affect expenditures for any agency.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 13‑1‑2040 SO AS TO PROVIDE DEFINITIONS, TO ESTABLISH THE WORKFORCE AND EDUCATION DATA OVERSIGHT COMMITTEE; TO PROVIDE THE FUNCTIONS OF THE COMMITTEE, TO PROVIDE THAT CERTAIN DEPARTMENTS SHALL SUBMIT CERTAIN DATA TO THE REVENUE AND FISCAL AFFAIRS OFFICE, TO PROVIDE FOR THE USES OF THE DATA COLLECTED, TO PROVIDE FOR ADMINISTRATIVE OVERSIGHT, TO PROVIDE FOR AUDITS, AND TO PROVIDE THAT INDIVIDUAL LEVEL DATA MAY NOT BE RELEASED; AND TO AMEND SECTION 13‑1‑2030, RELATING TO THE COORDINATING COUNCIL FOR WORKFORCE DEVELOPMENT, SO AS TO DELETE REFERENCES TO DESIGNEES ON THE COORDINATING COUNCIL.

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

SECTION 1. Article 15, Chapter 1, Title 13 of the 1976 Code is amended by adding:

“Section 13‑1‑2040. (A) As used in this section:

(1) ‘Office’ means the Revenue and Fiscal Affairs Office.

(2) ‘Committee’ or ‘WEDOC’ means the Workforce and Education Data Oversight Committee.

(3) ‘Partner agencies’ means the Office of First Steps to School Readiness, the Department of Education, the Commission on Higher Education, the Department of Social Services, the Technical College System, the Department of Commerce, the Department of Employment and Workforce, the Education Oversight Committee, and colleges and universities.

(B)(1) There is established the Workforce and Education Data Oversight Committee created to support the mission of the Coordinating Council for Workforce Development as established in Section 13‑1‑2030. WEDOC is comprised of:

(a) the Secretary of the Department of Commerce;

(b) the State Superintendent of Education;

(c) the Executive Director of the State Board for Technical and Comprehensive Education;

(d) the Executive Director of the Department of Employment and Workforce;

(e) the Executive Director of the Commission on Higher Education;

(f) the president or provost of a research university, currently serving on the Coordinating Council for Workforce Development, who is selected by the presidents of the research universities;

(g) the president or provost of a four year college or university, currently serving on the Coordinating Council for Workforce Development, who is selected by the presidents of the four year universities;

(h) the president of a technical college, currently serving on the Coordinating Council for Workforce Development, who is appointed by the Chairman of the State Board for Technical and Comprehensive Education;

(i) a person appointed by the Superintendent of Education, currently serving on the Coordinating Council for Workforce Development, who has particularized expertise regarding Chapter 59, Title 59, the South Carolina Education and Economic Development Act; and

(j) a representative from the business community appointed by the Governor upon recommendation of the South Carolina Chamber of Commerce, provided that the recommendation does not require membership in such organization.

(2) A vacancy on the committee is filled in the same manner as the original appointment.

(3) The Governor shall select the chair of the committee from its voting members. The chair serves for two years, or until a successor is selected.

(4) The committee shall meet as necessary to respond to requests or at the call of the chair.

(5) A majority of the voting members of the committee constitutes a quorum for the purpose of conducting business. The affirmative vote of a majority of the members of the governance committee is required for the committee to take official action.

(6) WEDOC and the office are considered authorized representatives of the State Department of Education and the South Carolina Commission on Higher Education pursuant to applicable federal and state statutes for the purposes of accessing and compiling student record data for audit and evaluation purposes.

(C)(1) The committee, working in conjunction with the office, shall:

(a) effectively organize, manage, secure, and analyze educational, workforce, and other data as necessary to achieve the objectives of the Coordinating Council for Workforce Development;

(b) generate timely and accurate information and reports about student progress and outcomes over time, including students’ preparation for postsecondary education and the workforce;

(c) support the economic development and other activities of state and local governments;

(d) work with state agencies and other entities participating in the office’s data analytics to develop and implement appropriate policies and procedures concerning data quality, integrity, transparency, security, and confidentiality; and

(e) coordinate the provision and delivery of data, as determined by the committee, to ensure that research project timelines and deliverables to stakeholders are met.

(2) The office may hire staff as necessary to administer the tasks of this section and to ensure compliance with statutory, regulatory, and other obligations.

(3) The committee, in conjunction with the office, shall oversee the collection, use, and linking of data as necessary to meet its obligations only after:

(a) evaluating the security risks, privacy risks, compliance obligations, and financial requirements; and

(b) implementing and overseeing processes to ensure compliance with statutory, regulatory, and other obligations.

(4) The office may link workforce and education data, as outlined in subsection (F) with medical and health records provided that the office complies with Section 44‑6‑180 and with the requirements of subsection (F).

(5) All information disseminated must conform to state and federal privacy, security, and data breach laws and regulations.

(6) The office, with the consent of the committee, may promulgate regulations to formalize the process to collect, use, maintain the security of, analyze, and generate reports on data to be overseen by the committee.

(D)(1) The Office of First Steps to School Readiness, the Department of Education, the Commission on Higher Education, the Department of Social Services, the Technical College System, the Department of Commerce, the Department of Employment and Workforce, the Education Oversight Committee, and other agencies of the state, as considered necessary by the General Assembly, that collect relevant data related to educational and workforce outcomes shall submit that data to the office in a timely manner upon the development of the oversight requirements provided in subsection (E) and shall ensure:

(a) routine and ongoing compliance with the federal Family Educational Rights and Privacy Act pursuant to 20 U.S.C. 1232g, Federal and State Unemployment Compensation Program, confidentiality and disclosure of state unemployment compensation information pursuant to 20 C.F.R. Part 603, Section 59‑1‑490, and other relevant privacy and security laws and policies, including the following:

(i) the required use of de‑identified data in research and reporting information relating to a specific individual or entity;

(ii) the required disposition or disposal of information that is no longer needed;

(iii) the maintenance of a data security plan, including the capacity for audit trails and the performance of regular audits for compliance with data privacy and security standards; and

(iv) the implementation of guidelines and policies to prevent the reporting of other data that may potentially be used to identify information relating to a specific individual or entity;

(b) the use of data only in aggregate form in reports and responses to information requests; and

(c) data identifiable based on the size or uniqueness of the data may not be reported.

(2) Other entities, both public and private, may submit to the office relevant data, including data at the individual level, as determined by the committee and working through the office.

(3) Data submitted to the office pursuant to items (1) and (2):

(a) remains under the ownership and direction of the agency submitting the data; and

(b) only may be used for the purposes of this section, unless the agency that submitted the data consents to the additional use.

(E)(1) Except as provided in item (2), workforce and education data collected pursuant to this section may be used:

(a) for the purposes of improving the effectiveness of the state’s educational delivery system on the economic opportunities of individuals and the state’s workforce, and to guide state and local decision makers; and

(b) to respond to requests from the state, local agencies, and the General Assembly.

(2) The partner agencies are subject to the following limitations on the use of their education and workforce data:

(a) all material and information products gathered by or disclosed to partner agencies pursuant to this section may not be disclosed or discussed with a third party without the prior written consent of the relevant partner agency unless that information is already in the public domain;

(b) before public disclosure, any reports, studies, or other research using matched data must be sent to the partner agencies whose data is being used thirty days before publication; and

(c) partner agencies may request adjustments to research, analysis, or suppression methodology as appropriate.

(3) Data may not be used to identify any particular individual or set of individuals on an individual basis except as required by law enforcement or a court order or in any way that violates state or federal law, except as required by law.

(F)(1) The committee shall provide administrative oversight for the usage of the workforce and education data provided in subsection (D).

(2) The chairman of the committee, in consultation with, if possible, the executive director of the office, shall notify immediately the Governor’s Office of anomalies or violations to data integrity and security. The Governor then shall take action to halt all data activity related to the WEDOC until the issue is resolved. If the chairman is not available, the executive director of the office shall inform the Governor’s Office. The committee also must be informed if the Governor’s Office is informed.

(3) Administrative oversight of workforce and education data includes:

(a) work with the office and other participating state agencies to establish:

(i) a compliance time frame for the submission of data to the office as appropriate to the agency; and

(ii) compliance with the South Carolina Division of Information Security and Enterprise Privacy Office’s standards to uphold the security, privacy, and accuracy of all workforce and education data;

(b) development and implementation of a data security and safeguarding plan that includes:

(i) access by authenticated and authorized persons;

(ii) privacy and security compliance standards;

(iii) notification and other procedures in case of a data breach;

(iv) privacy and security audits; and

(v) policies for data retention, disposition, and disposal;

(c) development and implementation of policies to provide routine and ongoing compliance with the federal Family Educational Rights and Privacy Act pursuant to 20 U.S.C. 1232g, Section 59‑1‑490, and other relevant privacy and security laws and policies;

(d) establishment of the policy and research agenda for workforce and education‑related data;

(e) establishment of policies for responding to data requests as it relates to the WEDOC from the state, local agencies, and the General Assembly. No one, including, but not limited to, a member of the General Assembly or a member of the Governor’s office, is authorized to have access to or be in possession of any individual level data within the jurisdiction of the office;

(f) submittal, as part of the annual report required in Section 13‑1‑2030(B)(1)(g), of the following information for the most recent fiscal year:

(i) an update concerning the administration of workforce and education data and the committee’s activities;

(ii) an overview of all studies performed;

(iii) proposed or planned contractions, changes, or expansions of the data used by the committee; and

(iv) other recommendations made by the office or the committee;

(g) the ability of the committee to review research requirements and set policies for the approval of data requests.

(4) Funding for the development, maintenance, and use of workforce and education data housed at the office must be obtained from appropriations made by the General Assembly for this purpose. The office may obtain supplemental funding from any of the following sources:

(a) grants or other assistance from local educational agencies or institutions of higher education;

(b) federal grants;

(c) user fees; or

(d) grants or amounts received from other public or private entities.

(5) The office may contract with public or private entities to:

(a) develop and maintain workforce and education data housed at the office, including analytical and security capabilities, provided contracts made pursuant to this subitem must include:

(i) express provisions that safeguard the privacy and security of all workforce and education data; and

(ii) penalties for failure to comply with the provisions of subsubitem (i);

(b) conduct research in support of the activities and objectives listed in subsection (C); and

(c) conduct research on topics at the request of the committee, the Governor, or the General Assembly.

(G) The committee shall cause a complete audit of the committee’s affairs to be made by an independent certified public accountant with copies of the audit report and related documents to be delivered concurrently to the General Assembly and the Governor.

(H) The office or committee may not release individual level data or data that could be used to identify an individual, except as required by law.

(I) While the collection and use of the data for the stated purposes herein are important in meeting the education and workforce goals of the State, they are secondary to the goal of protecting the security and privacy of the data collected and used.

(J) If data integrity is violated, the office shall follow the breach protocol pursuant to Section 1‑11‑490.

(K) Nothing in this Section may be construed to restrict or limit an agency’s use or control of its data.”

SECTION 2. Section 13‑1‑2030 (A) through (B)(1)(a) of the 1976 Code is amended to read:

“Section 13‑1‑2030. (A) There is established the ‘Coordinating Council for Workforce Development’ which is created to engage in discussions, collaboration, and information sharing concerning the state’s ability to prepare and train workers to meet current and future workforce needs. The coordinating council ~~shall~~ must be comprised of ~~the following members~~:

(1) the Secretary of the Department of Commerce ~~or his designee~~;

(2) the State Superintendent of Education ~~or his designee~~;

(3) the Executive Director of the State Board for Technical and Comprehensive Education ~~or his designee~~;

(4) the Executive Director of the Department of Employment and Workforce ~~or his designee~~;

(5) the Executive Director of the Commission on Higher Education ~~or his designee~~;

(6) the president or provost of a research university who ~~shall be~~ is selected by the presidents of the research universities;

(7) the president or provost of a four year college or university who ~~shall be~~ is selected by the presidents of the four year universities;

(8) the president of a technical college who shall be appointed by the Chairman of the State Board for Technical and Comprehensive Education;

(9) a person appointed by the Superintendent of Education who has particularized expertise regarding Chapter 59, Title 59, the South Carolina Education and Economic Development Act; and

(10) a representative from the business community appointed by the Governor upon the recommendation of the South Carolina Chamber of Commerce, provided that the recommendation does not require membership in such organization.

(B)(1) The coordinating council shall:

(a) develop and implement procedures for sharing information and coordinating efforts among stakeholders to prepare the state’s current and emerging workforce to meet the needs of the state’s economy~~. The primary workforce focus of the council shall be on persons over age twenty one~~;”

SECTION 3. This act takes effect upon approval by the Governor.

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