



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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*This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.*

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**Bill Number:** S. 0544 Amended by Senate Education Subcommittee on March 17, 2022  
**Author:** Loftis  
**Subject:** Education: Open Enrollment  
**Requestor:** Senate Education  
**RFA Analyst(s):** Wren  
**Impact Date:** March 22, 2022

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### **Fiscal Impact Summary**

The amended bill requires the State Department of Education (SCDE) to develop and provide a template for each local board of trustees to use to develop and adopt their own open enrollment policy. The open enrollment opportunities must be available beginning with the 2023-24 school year.

The expenditure impact of this bill on SCDE is pending, contingent upon a response.

This bill is not expected to have a revenue impact on the General Fund since we anticipate there have only been a small number of offenses related to school district trustees permitting the enrollment of nonresident pupils without the consent of the residing school district.

The overall expenditure impact on local school districts to adopt and follow procedures for open enrollment is undetermined. Some school districts previously indicated the need to hire FTEs to manage the application and enrollment process and indicated the potential need to purchase a lottery system to determine student enrollment. Further, the change in enrollment may impact expenditures if the number of students in a district changes.

The overall revenue impact on local governments is undetermined. The shift in enrollment will affect state pupil-based funding distributions. Additionally, the bill requires each district's open enrollment policy to state whether the district may charge nonresident students a fee to cover costs associated with their enrollment that are not covered by federal, state, or local funding, but the fee amount is not specified. The revenue impact will depend upon the number of students who may be allowed to enroll in a school outside of their resident district, the actual state funding per student, and any fees that may be charged for nonresident students.

### **Explanation of Fiscal Impact**

#### **Amended by Senate Education Subcommittee on March 17, 2022**

##### **State Expenditure**

The amended bill requires SCDE to develop and provide a template for each local board of trustees to use to develop and adopt their own open enrollment policy. The State Board of

Education must approve the template developed by SCDE and must ensure that each district policy that is developed, along with the data used to develop the policy and the related procedures, are posted prominently on the district website. The bill also requires the State Board of Education through the State Superintendent of Education to establish a standard inter-district open enrollment timeline for parents and districts to follow. Additionally, the bill requires SCDE to include all district open enrollment policies on its School Choice website portal. Further, SCDE must provide an update annually by October first to the State Board of Education, the Senate Education Committee Chair, and the House Education and Public Works Chair on the status, progress, innovations, evolving best practices, and challenges of implementing the program, including identifying districts that have not submitted a policy.

The expenditure impact of this bill on SCDE to develop a template for the open enrollment process and for the reporting requirements is pending, contingent upon a response.

### **State Revenue**

This bill repeals Section 59-63-500, which makes it a misdemeanor with a fine not exceeding \$25 or imprisonment of no more than thirty days for any school district trustee to permit the enrollment of nonresident pupils without the consent of the residing school district. We anticipate that the number of these offenses over time has been minimal. Fees, fines, and surcharges from offenses are generally allocated to the General Fund, specified state agencies and programs, and local governments. However, since we anticipate only a small number of these offenses have occurred, we do not expect a revenue impact on the General Fund.

### **Local Expenditure**

The amended bill requires each local board of trustees to use the policy template approved by the State Board of Education to develop and adopt an open enrollment policy based on its evaluation of available data reflecting student, school, district, and community needs. The open enrollment opportunities that allow parents to apply for their child to enroll in any particular program or school must be available beginning with the 2023-24 school year. Each district must post its open enrollment policy, along with the data used to develop the policy and related procedures on its website. The open enrollment policy must clearly distinguish intra-district policies from inter-district policies. Additionally, the open enrollment policy and process must:

- adhere to certain federal and educational requirements;
- identify the application requirements, timeline, and communication plans;
- allow parent to declare school preferences;
- describe lottery and wait list policies, and an appeal process;
- include the policies adopted by the board regarding capacity standards, standards of approval and denial, priorities of acceptance for enrollment, and transportation;
- describe whether the district may charge nonresident students a fee to cover costs associated with their enrollment that are not covered by federal, state, or local funding, and if so, how such a fee is calculated; and
- include a component addressing public awareness of open enrollment opportunities, accessing data on the open enrollment capacity of a school, the district application process and timeline, and written procedures for notification of acceptance or denial of an application.

Also, a student must not be displaced by a student transferring from outside the attendance zone as long as the student currently resides in the attendance zone of the school, is qualified to attend a school within the attendance zone pursuant to current statute, or is a returning student who continues to meet the requirements of the program or school. After the above mentioned students have been assigned to a school, remaining enrollment opportunities must be assigned as follows:

- first to students who meet the requirements of the program or school and who see to attend the designated school in the district's feeder pattern;
- second, to the siblings of students residing in the same household already enrolled in the school, provided that any siblings seeking priority under this bill meet the requirements of the program or school; and
- third to students whose parent or legal guardian is assigned to the school as his primary place of employment, with any remaining spaces being filled pursuant to a lottery procedure as follows:
  - for intra-district open enrollment applicants, then
  - if any remaining, for inter-district open enrollment applicants.

SCDE previously surveyed the regular school districts regarding the expenditure impact of this bill. One of the responding districts indicated that the bill could increase expenses by \$170,000 for an additional FTE to manage the application process and a lottery system to determine student enrollment. Another responding district indicated that the bill would increase expenses by approximately \$50,000 for an FTE to manage the provisions of the bill. Due to the limited responses, the expenditure impact on local school districts to implement the application and enrollment process is undetermined.

The bill also repeals Section 59-63-500, which makes it a misdemeanor with a fine not exceeding \$25 or imprisonment of no more than thirty days for any school district trustee to permit the enrollment of nonresident pupils without the consent of the residing school district. We anticipate that the number of these offenses over time has been minimal. Therefore, we do not anticipate any cost savings for county or municipal prison or court systems for this portion of the bill.

### **Local Revenue**

The amended bill requires each local board of trustees to use the policy template approved by the State Board of Education to develop and adopt an open enrollment policy based on its evaluation of available data reflecting student, school, district, and community needs. The open enrollment opportunities must be available beginning with the 2023-24 school year.

SCDE previously surveyed the local school districts and many of the responding districts indicated that since the bill allows students to apply to enroll in a district other than their resident district, the bill could have an impact on state funding that is allocated to districts based on enrollment. Additionally, the amended bill requires each district's open enrollment policy to describe whether the district may charge nonresident students a fee to cover costs associated with their enrollment that are not covered by federal, state, or local funding. Since the impact will

depend upon the number of students who may be allowed to enroll in a school outside of their resident district, the actual state funding per student, and any fees that may be charged for nonresident students, the revenue impact on local school districts is undetermined.

The bill also repeals Section 59-63-500, which makes it a misdemeanor with a fine not exceeding \$25 or imprisonment of no more than thirty days for any school district trustee to permit the enrollment of nonresident pupils without the consent of the residing school district. We anticipate that the number of these offenses over time has been minimal. Fees, fines, and surcharges from offenses are generally allocated to the General Fund, specified state agencies and programs, and local governments. However, since we anticipate only a small number of these offenses have occurred, we do not expect a revenue impact on local governments.

In summary, the overall local revenue impact is undetermined.

### **Updated for Additional Agency Response on April 30, 2021 Introduced on February 11, 2021**

#### **State Expenditure**

This bill allows a party aggrieved by the decision of a school board to deny enrollment to a particular program or school within a school district to have the right to appeal to the court of common pleas of the county where the matter will be tried de novo by the circuit judge.

We anticipate that the implementation of this bill may increase the number of hearings held in circuit courts, which may lead to an increased backlog for the circuit courts. However, we anticipate that the Judicial Department will be able to accomplish the requirements of the bill within existing appropriations.

#### **State Revenue**

This bill repeals Section 59-63-500, which makes it a misdemeanor with a fine not exceeding \$25 or imprisonment of no more than thirty days for any school district trustee to permit the enrollment of nonresident pupils without the consent of the residing school district. We anticipate that the number of these offenses over time has been minimal. Fees, fines, and surcharges from offenses are generally allocated to the General Fund, specified state agencies and programs, and local governments. However, since we anticipate only a small number of these offenses have occurred, we do not expect a revenue impact on the General Fund.

#### **Local Expenditure**

This bill requires every school district and charter school to allow its resident pupils to apply to enroll in a particular program or school within such school district, and beginning with the 2022-23 school year to allow nonresident pupils from other school districts to apply to enroll in a particular program or school within the school district or charter school. A district school board must adopt and post on its website the process required to participate in open enrollment. Also, a district board must provide preferential treatment in its open enrollment process to dependent children of active-duty military personnel whose move resulted from military orders, children who have been relocated due to a foster care placement, children who move due to a court ordered change in custody, students residing in the school district, and children entitled to attend

school pursuant to a qualifying reason as stated in Section 59-63-31. Additionally, a school district may deny enrollment to any of its resident pupils or any nonresident pupils in a particular program or school within the district under certain conditions.

The bill also removes the requirement that out-of-district enrollment at a charter school may not exceed twenty percent of the total enrollment of the school without the approval of the sponsoring district board of trustees. Additionally, the bill removes the requirement that if the twenty percent of out-of-district enrollment is from one school district, the sending district must concur with additional students transferring from the district to the charter school. Further, the bill removes the residency and real estate ownership requirements for students to attend public schools.

SCDE surveyed the seventy-nine regular school districts and the two charter school districts regarding the expenditure impact of this bill. One of the responding districts indicates that the bill could increase expenses by \$170,000 for an additional FTE to manage the application process and a lottery system to determine student enrollment. Another responding district indicates that this bill would increase expenses by approximately \$50,000 for an FTE to manage the provisions of the bill. Due to the limited responses, the expenditure impact on local school districts to implement the application and enrollment process is undetermined. Further, several of the responding districts expressed a concern with the deletion of the requirement that nonresident students must own real estate in the attending district. Districts indicate that this deletion could create an influx of applications for enrollment, which would further complicate the application and enrollment process for current staff. This section has been updated to include responses from the local school districts.

The bill also repeals Section 59-63-500, which makes it a misdemeanor with a fine not exceeding \$25 or imprisonment of no more than thirty days for any school district trustee to permit the enrollment of nonresident pupils without the consent of the residing school district. We anticipate that the number of these offenses over time has been minimal. Therefore, we do not anticipate any cost savings for county or municipal prison or court systems for this portion of the bill. This section of the impact statement has been updated to correct a typographical error in the amount of the fine.

### **Local Revenue**

This bill requires every school district and charter school to allow its resident pupils to apply to enroll in a particular program or school within such school district, and beginning with the 2022-23 school year to allow nonresident pupils from other school districts to apply to enroll in a particular program or school within the school district or charter school.

SCDE surveyed the local school districts and many of the responding districts indicate that since the bill allows students to apply to enroll in a district other than their resident district, the bill could have an impact on the base student cost funding that is allocated to districts. The responding districts also indicate that they anticipate that the base student cost funding will follow the student. Since the impact will depend upon the number of nonresident students and the actual base student cost funding per district, the revenue impact on local school districts is

undetermined. This section of the impact statement has been updated to include responses from local districts.

This bill repeals Section 59-63-45, which allows a nonresident child to attend a school in a school district with a payment equal to the prior year's local revenue per child. Districts currently have the option to waive all or a portion of the payment. SCDE surveyed the local school districts regarding the revenue impact of repealing this section and several districts indicate that they do require payment for nonresident students. Districts further indicate that this could have an impact on local revenues, but could not quantify the impact. Therefore, the impact of repealing Section 59-63-45 is undetermined and depends upon the number of nonresident students and the local revenue amount per district. This section of the impact statement has been updated based upon local district responses provided by SCDE.

The bill also repeals Section 59-63-500, which makes it a misdemeanor with a fine not exceeding \$25 or imprisonment of no more than thirty days for any school district trustee to permit the enrollment of nonresident pupils without the consent of the residing school district. We anticipate that the number of these offenses over time has been minimal. Fees, fines, and surcharges from offenses are generally allocated to the General Fund, specified state agencies and programs, and local governments. However, since we anticipate only a small number of these offenses have occurred, we do not expect a revenue impact on local governments. This section of the impact statement has been updated to correct a typographical error in the amount of the fine.

In summary, the overall local revenue impact is undetermined.

### **Introduced on February 11, 2021**

#### **State Expenditure**

This bill allows a party aggrieved by the decision of a school board to deny enrollment to a particular program or school within a school district to have the right to appeal to the court of common pleas of the county where the matter will be tried de novo by the circuit judge.

We anticipate that the implementation of this bill may increase the number of hearings held in circuit courts, which may lead to an increased backlog for the circuit courts. However, we anticipate that the Judicial Department will be able to accomplish the requirements of the bill within existing appropriations.

#### **State Revenue**

This bill repeals Section 59-63-500, which makes it a misdemeanor with a fine not exceeding \$25 or imprisonment of no more than thirty days for any school district trustee to permit the enrollment of nonresident pupils without the consent of the residing school district. We anticipate that the number of these offenses over time has been minimal. Fees, fines, and surcharges from offenses are generally allocated to the General Fund, specified state agencies and programs, and local governments. However, since we anticipate only a small number of these offenses have occurred, we do not expect a revenue impact on the General Fund. We will update this impact statement if SCDE provides a different response.

## **Local Expenditure**

This bill requires every school district and charter school to allow its resident pupils to apply to enroll in a particular program or school within such school district, and beginning with the 2022-23 school year to allow nonresident pupils from other school districts to apply to enroll in a particular program or school within the school district or charter school. A district school board must adopt and post on its website the process required to participate in open enrollment. Also, a district board must provide preferential treatment in its open enrollment process to dependent children of active-duty military personnel whose move resulted from military orders, children who have been relocated due to a foster care placement, children who move due to a court ordered change in custody, students residing in the school district, and children entitled to attend school pursuant to a qualifying reason as stated in Section 59-63-31. Additionally, a school district may deny enrollment to any of its resident pupils or any nonresident pupils in a particular program or school within the district under certain conditions.

The bill also removes the requirement that out-of-district enrollment at a charter school may not exceed twenty percent of the total enrollment of the school without the approval of the sponsoring district board of trustees. Additionally, the bill removes the requirement that if the twenty percent of out-of-district enrollment is from one school district, the sending district must concur with additional students transferring from the district to the charter school. Further, the bill removes the residency and real estate ownership requirements for students to attend public schools.

*The overall expenditure impact of this bill on local school districts to adopt and follow procedures for open enrollment of resident and nonresident pupils is pending, contingent upon further review by SCDE.*

The bill also repeals Section 59-63-500, which makes it a misdemeanor with a fine not exceeding \$25 or imprisonment of no more than thirty days for any school district trustee to permit the enrollment of nonresident pupils without the consent of the residing school district. We anticipate that the number of these offenses over time has been minimal. Therefore, we do not anticipate any cost savings for county or municipal prison or court systems for this portion of the bill. We will update this portion of the impact statement if SCDE provides a different response.

## **Local Revenue**

This bill requires every school district and charter school to allow its resident pupils to apply to enroll in a particular program or school within such school district, and beginning with the 2022-23 school year to allow nonresident pupils from other school districts to apply to enroll in a particular program or school within the school district or charter school.

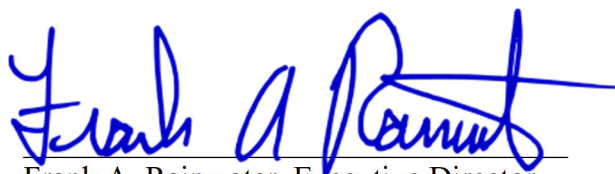
The overall impact on local revenue is undetermined. The bill allows students to apply to enroll in a district other than their resident district, which could have an impact on the base student cost funding that is allocated to districts. We anticipate that the funds will follow the student. Some districts may realize a reduction in base student cost funding, while others may experience an increase. The impact will depend upon the number of students moving between districts and the

base student cost that is allocated to those districts. Therefore, the revenue impact on local school districts is undetermined.

This bill deletes Section 59-63-45, which allows a nonresident child to attend a school in a school district with a payment equal to the prior year's local revenue per child. Since districts currently have the option to waive all or a portion of the payment, we anticipate that the repeal of this section will have no significant impact on local school districts.

The bill also repeals Section 59-63-500, which makes it a misdemeanor with a fine not exceeding \$25 or imprisonment of no more than thirty days for any school district trustee to permit the enrollment of nonresident pupils without the consent of the residing school district. We anticipate that the number of these offenses over time has been minimal. Fees, fines, and surcharges from offenses are generally allocated to the General Fund, specified state agencies and programs, and local governments. However, since we anticipate only a small number of these offenses have occurred, we do not expect a revenue impact on local governments.

In summary, we do not expect that the repeal of Sections 59-63-45 and 59-63-500 will have a revenue impact on local school districts or local governments. However, we will update this impact statement if SCDE provides a different response.



Frank A. Rainwater, Executive Director