COMMITTEE REPORT

January 26, 2022

**H. 3590**

Introduced by Reps. Allison and Lucas

S. Printed 1/26/22--S.

Read the first time April 7, 2021.

**THE COMMITTEE ON EDUCATION**

To whom was referred a Bill (H. 3590) to amend the Code of Laws of South Carolina, 1976, by adding Section 59‑18‑1115 so as to provide public school districts may hire noncertified teachers for any, 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 striking all after the enacting words and inserting:

/ SECTION 1. (A) The Department of Education is directed to establish a pilot program by May 1, 2023, that will permit a school that has received an overall rating of “Excellent” on its annual report card for at least two consecutive years, or is located in a critical geographic area as defined in Section 59‑26‑20(j), to hire noncertified teachers in a ratio of up to ten percent of its entire teaching staff. In order to effect the establishment of the pilot program, the State Board of Education, through the Department of Education, shall approve guidelines that at a minimum shall include the following:

(1) a noncertified teacher must possess a baccalaureate or graduate degree in the subject he is hired to teach and must have at least five years of relevant workplace experience;

(2) procedures are provided for noncertified teachers to participate in the evaluation process pursuant to Section 59‑26‑30(B)(4) and (5); and

(3) training is required to ensure that noncertified teachers are prepared to enter the classroom.

(B) Participation in the pilot program is optional, and the decision to participate rests solely with the Department of Education and the school principal, upon approval of the district superintendent. Participating schools and districts are encouraged to collaborate on recruitment, training, and implementation of the pilot program and to assist the Department of Education with establishing best practices.

(C) The Department of Education shall establish a separate code in the professional coding system to capture noncertified teachers and shall continue to report this information on school report cards.

(D) Beginning November 1, 2024, the Department of Education shall submit an annual report that includes recommendations for improving, expanding, or continuing the pilot program to the General Assembly. At the end of the five‑year pilot program, the annual status report shall include a recommendation regarding continuance of the program.

(E)(1) The Department of Education shall establish procedures for the registration and clearance of all noncertified educators working in any public school pursuant to this section. Educators shall submit the required documentation and fees to the Department of Education, which shall include, but are not limited to:

(a) a completed registration form;

(b) any associated fee;

(c) transcripts, which shall be subject to review; and

(d) FBI, South Carolina Law Enforcement Division, and National Association of State Directors of Teacher Education and Certification Clearinghouse checks.

(2) An educator whose South Carolina educator certificate has been suspended or revoked shall not be employed as a noncertified teacher. If a noncertified teacher commits an offense covered by the Code of Conduct as promulgated by the State Board of Education, then the State Board of Education is authorized to revoke the educator’s registration.

SECTION 2. Nothing contained in this section may be construed to repeal, replace, or preclude application of any other statute.

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

Renumber sections to conform.

Amend title to conform.

GREG HEMBREE for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill requires districts that employ noncertified teachers to individually register each noncertified teacher with SCDE. Districts must also provide SCDE with the name of each noncertified teacher, the school where the teacher is employed, and the subject area the teacher was hired to teach. SCDE must report this information to the General Assembly at the completion of the school year. Additionally, a district that terminates a registered noncertified teacher from employment must notify SCDE of the reason for termination within ten days after the termination. Further, all noncertified teachers must undergo a state criminal records check by SLED and a national criminal records check supported by fingerprints and conducted by the Federal Bureau of Investigation before being hired. Currently, all school district employees must undergo a name-based state criminal record search conducted by the local district using records maintained by SLED pursuant to Section 59-19-117.

**State Department of Education.** The overall expenditure impact on SCDE is undetermined. The existing educator information system must be modified by software developers in order to issue a new credential for noncertified teachers and to create case management and workflow processes. SCDE indicates that the cost to modify the existing system is unknown.

SCDE also indicates that its general fund expenses will increase by at least $109,700 in FY 2022-23. Of this amount, $103,700 is recurring for 2.0 FTEs to process noncertified teacher registrations, including the evaluation of candidate documentation, review of criminal history record information, issuance of registrations, and the processing of disciplinary reviews and actions. The remaining $6,000 in nonrecurring expenses is for equipment for the new FTEs.

SCDE further indicates that its Office of General Counsel currently oversees the disciplinary process for misconduct complaints against certified educators and anticipates being able to manage the termination requirements for noncertified teachers. However, any potential expenditure impact will depend upon the number of cases involving noncertified teachers that are reported to the agency. If the Office of General Counsel experiences a significant increase in cases, general fund expenses of the agency could increase by as much as $211,500 for 2.0 FTEs to manage the increase in workload.

**State Agency Schools.** This bill will have no expenditure impact on the state agency schools. The Governor’s School for the Arts and Humanities indicates that the bill will have no expenditure impact since the agency can adhere to provisions of the bill within its current budget. The Wil Lou Gray Opportunity School indicates that this bill will have no expenditure impact on the agency since it only hires certified teachers. The School for the Deaf and Blind indicates that the bill will have no expenditure impact since any expenses for noncertified teachers can be managed within current appropriations. The Governor’s School for Science and Mathematics previously indicated that the bill would have no expenditure impact on the agency. The Governor’s School for Agriculture at John de la Howe previously indicated that the school currently has no noncertified teachers. The agency also previously indicated that if the need arises to hire noncertified teachers for up to twenty-five percent of its teaching staff, or two teachers, any expenses for the two noncertified teachers could be managed within existing appropriations. Further, we anticipate that the additional reporting requirements can be managed within existing appropriations for each state agency school. Therefore, this bill will have no expenditure impact on the state agency schools.

**State Law Enforcement Division.** SLED indicates that this bill will have no expenditure impact on the agency as it can manage any increase in criminal records checks within existing appropriations.

**State Revenue**

The amended bill requires all noncertified teachers employed by school districts to undergo a state criminal records check by SLED and a national criminal records check supported by fingerprints and conducted by the Federal Bureau of Investigation before being hired.

We anticipate that the amended bill may increase the number of state criminal records checks that SLED will be required to perform. SLED indicates that the total cost for a criminal records check is $51.75, of which $25 is retained by SLED. The current vendor, Identogo, receives $13.50, and the remainder of the fee, $13.25, is remitted to the Federal Bureau of Investigation (FBI). SLED further indicates that these fees may increase slightly as the state is currently operating under a six-month emergency contract extension with the vendor. Pursuant to Section 23-3-115(A), revenue generated from state criminal records checks performed by SLED up to an amount of $4,461,000 must be deposited in the general fund. Any revenue over that amount is retained by SLED.

The overall revenue impact of this bill on other funds of SLED is undetermined as the number of noncertified teachers fluctuates each year. However, SCDE indicates there are currently 1,368 noncertified teachers this school year. Further, SLED indicates that the agency generated $11,400,000 in revenue from criminal records checks in FY 2020-21. The revenue impact on other funds of SLED will depend on the number of noncertified teachers hired each year and the amount of fees collected for the criminal records checks.

**Local Expenditure**

This bill allows school districts to hire noncertified teachers in a ratio of up to twenty-five percent of a school or career center’s teaching staff if a certified teacher is not available. The following requirements must be met:

 The noncertified teachers must possess a baccalaureate or graduate degree from a regionally accredited college or university in the subject area they are hired to teach and must have at least five years of relevant workplace experience.

 No individual who has an active suspension or revocation of their educator certificate may qualify as a noncertified teacher.

 An individual may only serve as a noncertified teacher for two school years. After that time, the individual must demonstrate enrollment in an approved traditional or alternative route educator preparation program to continue employment.

 All noncertified teachers must undergo a state criminal records check by SLED and a national criminal records check supported by fingerprints and conducted by the FBI before being hired by a district. Eligible applicants who have prior arrests, convictions, or both, must undergo a review by the State Board of Education and be approved before a clearance letter can be issued to them. Also, an individual registering as a noncertified teacher must be checked against the national database of educator disciplinary actions.

For the purposes of this bill, the term noncertified teacher does not include applicants who met eligibility requirements for the Career and Technology work-based certification in the specified fields. A district that terminates a registered noncertified teacher from employment must notify SCDE of the termination and the reason for the termination within ten days. Additionally, districts must also provide SCDE with the name of each noncertified teacher, school where the teacher is employed, and the subject area the teacher was hired to teach.

The overall expenditure impact of this bill on local school districts is undetermined since the bill allows districts the option to hire noncertified teachers in a ratio of up to twenty-five percent of a school or career center’s teaching staff. The impact will vary by district and depends upon the number of noncertified teachers districts choose to hire. Although the number of noncertified teachers fluctuates, there are currently 1,368 noncertified teachers in the 2021-22 school year. This includes the following position codes: special education, prekindergarten, kindergarten, classroom teachers, and retired teachers. Additionally, the bill does not specify whether the local district, the noncertified teacher, or SLED will be responsible for the cost of the criminal records check. Based upon data previously received from SLED, the total cost for a criminal records check is $51.75. If local districts are responsible for the cost of the records check, district expenses may increase by an undetermined amount. Currently, Section 59-19-117 requires a criminal record search for all district employees. Districts are permitted to decide if the district will cover the cost or if it is the applicant’s responsibility. The cost of the records check may be offset by the existing expenditures, depending on which party is responsible. Additionally, districts will not generate state teacher salary funding for noncertified teachers. The potential salary impact for local districts will depend on the number of noncertified teachers each district chooses to hire.

**Updated for Additional Agency Response on March 9, 2021**

**Introduced on January 12, 2021**

**State Expenditure**

This bill requires districts that employ noncertified teachers to individually register each noncertified teacher with SCDE. A district that terminates a registered noncertified teacher from employment must notify SCDE of the reason for termination within thirty days after the termination.

**State Department of Education.** SCDE indicates that any expenses associated with modifying the educator information system to allow for the registration of noncertified teachers can be managed within current appropriations. Therefore, this bill will have no expenditure impact on the agency.

**State Agency Schools.** This bill will have no expenditure impact on the state agency schools. The Governor’s School for Science and Mathematics indicates that this bill will have no expenditure impact on the agency since most of its noncertified teachers have a doctorate degree. The Governor’s School for the Arts and Humanities indicates that the bill will have no expenditure impact since the agency can adhere to provisions of the bill within its current budget. The Governor’s School for Agriculture at John de la Howe indicates that the school currently has no noncertified teachers. Further, the agency indicates that if the need arises to hire noncertified teachers for up to twenty-five percent of its teaching staff, or two teachers, any expenses for the two noncertified teachers could be managed within existing appropriations. The Wil Lou Gray Opportunity School indicates that this bill will have no expenditure impact on the agency since it only hires certified teachers. The School for the Deaf and Blind indicates that the bill will have no expenditure impact since any expenses for noncertified teachers can be managed within current appropriations. Therefore, this bill will have no expenditure impact on the state agency schools. This section of the impact statement has been updated to include a response from the School for the Deaf and Blind.

**Local Expenditure**

This bill allows a school district to hire noncertified teachers in a ratio of up to twenty-five percent of a school or career center’s teaching staff if the school or career center has vacant teaching positions five business days before the beginning of the school year. The noncertified teachers must possess a baccalaureate or graduate degree in the subject area and must have at least five years of relevant workplace experience as determined by the local school board. Further, the bill requires districts to individually register each noncertified teacher with SCDE. A district that terminates a registered noncertified teacher from employment must notify SCDE of the reason for termination within thirty days after the termination.

SCDE indicates that the overall expenditure impact on local school districts is undetermined. Since districts will not generate teacher salary funding for noncertified teachers, the impact will vary by district and depends upon the number of noncertified teachers by district. SCDE further indicates that while the number of noncertified teachers fluctuates, there are 1,024 noncertified teachers. This includes the following position codes: special education, prekindergarten, kindergarten, classroom teachers, and retired teachers.

**Introduced on January 12, 2021**

**State Expenditure**

This bill requires districts that employ noncertified teachers to individually register each noncertified teacher with SCDE. A district that terminates a registered noncertified teacher from employment must notify SCDE of the reason for termination within thirty days after the termination.

**State Department of Education.** SCDE indicates that any expenses associated with modifying the educator information system to allow for the registration of noncertified teachers can be managed within current appropriations. Therefore, this bill will have no expenditure impact on the agency.

**State Agency Schools.** The overall expenditure impact of this bill on the state agency schools is pending, contingent upon a response from the School for the Deaf and Blind. However, the Governor’s School for Science and Mathematics indicates that this bill will have no expenditure impact on the agency since most of its noncertified teachers have a doctorate degree. The Governor’s School for the Arts and Humanities indicates that the bill will have no expenditure impact since the agency can adhere to provisions of the bill within its current budget. The Governor’s School for Agriculture at John de la Howe indicates that the school currently has no noncertified teachers. Further, the agency indicates that if the need arises to hire noncertified teachers for up to twenty-five percent of its teaching staff, or two teachers, any expenses for the two noncertified teachers could be managed within existing appropriations. The Wil Lou Gray Opportunity School indicates that this bill will have no expenditure impact on the agency since it only hires certified teachers.

**Local Expenditure**

This bill allows a school district to hire noncertified teachers in a ratio of up to twenty-five percent of a school or career center’s teaching staff if the school or career center has vacant teaching positions five business days before the beginning of the school year. The noncertified teachers must possess a baccalaureate or graduate degree in the subject area and must have at least five years of relevant workplace experience as determined by the local school board. Further, the bill requires districts to individually register each noncertified teacher with SCDE. A district that terminates a registered noncertified teacher from employment must notify SCDE of the reason for termination within thirty days after the termination.

SCDE indicates that the overall expenditure impact on local school districts is undetermined. Since districts will not generate teacher salary funding for noncertified teachers, the impact will vary by district and depends upon the number of noncertified teachers by district. SCDE further indicates that while the number of noncertified teachers fluctuates, there are 1,024 noncertified teachers. This includes the following position codes: special education, prekindergarten, kindergarten, classroom teachers, and retired teachers.

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 59‑18‑1115 SO AS TO PROVIDE PUBLIC SCHOOL DISTRICTS MAY HIRE NONCERTIFIED TEACHERS FOR ANY SCHOOLS AND CAREER AND TECHNOLOGY CENTERS THAT HAVE VACANT TEACHING POSITIONS FIVE BUSINESS DAYS BEFORE THE BEGINNING OF THE SCHOOL YEAR, TO PROVIDE THESE NONCERTIFIED TEACHERS MAY COMPRISE NO MORE THAN TWENTY‑FIVE PERCENT OF THE ENTIRE TEACHING STAFF OF A SCHOOL OR CAREER AND TECHNOLOGY CENTER, TO PROVIDE ACADEMIC AND EXPERIENCE REQUIREMENTS FOR THESE NONCERTIFIED TEACHERS, AND TO PROVIDE RELATED REQUIREMENTS CONCERNING THE REGISTRATION AND TERMINATION OF THESE NONCERTIFIED TEACHERS.

Amend Title To Conform

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

SECTION 1. Article 11, Chapter 18, Title 59 of the 1976 Code is amended by adding:

“Section 59‑18‑1115. (A) A school district may hire noncertified teachers in a ratio of up to twenty‑five percent of a school or career center’s teaching staff if a certified teacher is not available and the following requirements are met:

(1) Noncertified teachers must possess baccalaureate degrees or graduate degrees from a regionally accredited college or university in the subject they are hired to teach and must have at least five years of relevant workplace experience as determined by the local school board.

(2) No individual who has an active suspension or revocation of their educator certificate may qualify as a noncertified teacher for purposes of this section.

(3) An individual may only serve as a noncertified teacher for a period of two school years. After that time, the individual must demonstrate enrollment in an approved traditional or alternative route educator preparation program in order to continue employment.

(4) All noncertified teachers must undergo a state criminal records check by SLED and a national criminal records check supported by fingerprints and conducted by the FBI before being hired by a district. Eligible applicants who have prior arrests, convictions, or both, must undergo a review by the State Board of Education and be approved before a clearance letter can be issued to them. The fingerprinting process must be completed through the approved state vendor. Background checks from other states or agencies are not transferable and cannot be accepted for purposes of registering noncertified teachers in this State. An individual registering as a noncertified teacher also must be checked against the national database of educator disciplinary actions. The State Board of Education is authorized to deny, suspend, or revoke the registration of any noncertified teacher pursuant to Section 59‑25‑160 and R. 43‑58.

(B) For purposes of this section, ‘noncertified teacher’ does not include applicants who meet eligibility requirements for the Career and Technology work‑based certification in the respective fields.

(C) Districts must continue to comply with the provisions of Section 59‑19‑117 for noncertified teachers.

(D) The State Board of Education shall require districts employing noncertified teachers pursuant to this section to individually register each such noncertified teacher with the State Department of Education. A district that terminates a registered noncertified teacher from employment shall notify the department of the termination and the reason for termination within ten days after the termination.

(E) Districts must provide the department with the name of the noncertified teacher, school where the teacher is employed, and subject area in which the teacher was hired to teach. The State Department of Education shall report the information to the General Assembly at the completion of the school year.”

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

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