COMMITTEE REPORT

March 17, 2021

**H. 3941**

Introduced by Reps. Alexander, Allison and Kirby

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Read the first time February 23, 2021.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Joint Resolution (H. 3941) to encourage public school districts to develop and implement emergency sick leave plans using certain federal funds intended for COVID‑19 relief, etc., respectfully

**REPORT:**

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

MERITA A. ALLISON for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This joint resolution recommends that each public school district develop an emergency sick leave plan using ESSER funds within fifteen calendar days after the effective date of this joint resolution and indicate if it intends to use ESSER funds to implement the plan. Each district program must indicate how the district would provide paid sick leave or expanded family and medical leave to eligible employees for qualifying reasons as related to COVID-19. The plan should require that leave must be identical to the leave previously mandated by the Families First Coronavirus Response Act in terms of qualifying reasons for leave, leave duration amounts, and methods for calculating leave pay. Additionally, the plan should indicate that a teacher also must be considered to have a qualifying reason for leave if a health care provider determines that the teacher should not work in the school building due to an increased risk due to COVID-19.

SDE must provide the necessary information needed for developing emergency sick leave plans to school districts. The State Board of Education and local school districts may not take retaliatory action against an employee who takes emergency sick leave under a sick leave plan developed pursuant to the provisions of this joint resolution.

Districts must notify SDE of whether or not they have developed a sick leave plan and provide a copy of the plan within twenty-one days after the effective date of this joint resolution. Within thirty days after the effective date of the joint resolution, SDE must provide a report to the General Assembly indicating which districts did and did not develop sick leave plans. The report must also include copies of the sick leave plans. The joint resolution takes effect upon approval by the Governor and expires December 31, 2021.

**State Department of Education.** This joint resolution will have no expenditure impact on SDE. The agency indicates that it instructed districts to develop a leave policy using ESSER funds in January of 2021. SDE further indicates that the reporting requirements outlined in the joint resolution are within the normal course of agency business and will have no expenditure impact on the agency.

**State Agency Schools.** The Governor’s School for the Arts and Humanities indicates that any expenses associated with additional administrative work to develop and coordinate the plan could be absorbed within current appropriations. Likewise, the School for the Deaf and Blind and the Wil Lou Gray Opportunity School indicate that the joint resolution would have no expenditure impact on their agencies. Further, based upon these responses, we anticipate that any expenses associated with the development of the emergency sick leave plans can be managed within current appropriations of the Governor’s School for Science and Mathematics and the Governor’s School for Agriculture at John de la Howe. Therefore, this joint resolution is not expected to have an expenditure impact on the state agency schools.

**Local Expenditure**

This joint resolution recommends that each public school district develop an emergency sick leave plan using ESSER funds within fifteen calendar days after the effective date of this joint resolution and indicate if it intends to use ESSER funds to implement the plan. Each district program must indicate how the district would provide paid sick leave or expanded family and medical leave to eligible employees for qualifying reasons as related to COVID-19. The plan should require that leave must be identical to the leave previously mandated by the Families First Coronavirus Response Act in terms of qualifying reasons for leave, leave duration amounts, and methods for calculating leave pay. Additionally, the plan should indicate that a teacher also must be considered to have a qualifying reason for leave if a health care provider determines that the teacher should not work in the school building due to an increased risk due to COVID-19. Further, districts must notify SDE of whether or not they have developed a sick leave plan and provide a copy of the plan within twenty-one days after the effective date of this joint resolution.

SDE indicates that this joint resolution will have no expenditure impact on local school districts since the agency instructed districts to develop a leave policy using ESSER funds in January 2021. Any administrative expenses associated with the development of the plans are expected to be managed within the existing budgets of the districts.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **JOINT RESOLUTION**

TO ENCOURAGE PUBLIC SCHOOL DISTRICTS TO DEVELOP AND IMPLEMENT EMERGENCY SICK LEAVE PLANS USING CERTAIN FEDERAL FUNDS INTENDED FOR COVID‑19 RELIEF, TO PROVIDE REQUIREMENTS FOR SUCH PLANS, TO PROVIDE RELATED SUPPORT REQUIREMENTS OF THE STATE DEPARTMENT OF EDUCATION, TO PROVIDE PROTECTIONS FOR SCHOOL DISTRICT EMPLOYEES WHO USE SUCH EMERGENCY SICK LEAVE, AND TO PROVIDE RELATED REPORTING REQUIREMENTS OF LOCAL SCHOOL DISTRICTS AND THE STATE DEPARTMENT OF EDUCATION.

Whereas, in response to the COVID‑19 pandemic, the United States Congress enacted the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief, and Economic Security (CARES) Act; and

Whereas, among other things, FFCRA required employers provide certain sick leave related to COVID‑19, and the CARES Act allocated funds to the Education Stabilization Fund for the Elementary and Secondary School Emergency Relief (ESSER) for the use of school districts in maintaining operations and continuity of services; and

Whereas, the Congress did not reauthorize FFCRA, which consequently expired on December 31, 2020, thereby ending the federally mandated paid sick leave requirements of the act; and

Whereas, while school districts are no longer federally required to provide sick leave related to COVID‑19 under the FFCRA, adequate ESSER funds remain to cover such leave for school district employees in 2021, if the districts so choose; and

Whereas, some school districts are not exercising the option to use these ESSER funds to provide COVID‑19‑related sick leave to replace the emergency sick leave previously provided by FFCRA; and

Whereas, the General Assembly finds that critical importance of the health and safety of public school employees, students, and their families dictates that each local school district should create an emergency sick leave plan using their available ESSER funds to ensure that school district employees who need to take paid leave for a COVID‑19‑related issue, as previously allowed under ESSER, may do so without repercussion. Now, therefore:

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

SECTION 1. (A) Each public school district in the State should develop an emergency sick leave plan using Elementary and Secondary School Emergency Relief (ESSER) funds within fifteen calendar days after the effective date of this joint resolution and indicate if it intends to use ESSER funds to implement the plan. Each such district program shall indicate how the district would provide paid sick leave or expanded family and medical leave to eligible employees for specific qualifying reasons related to COVID‑19. This plan should require that leave must be identical to the leave previously mandated by the Families First Coronavirus Response Act (FFCRA) in terms of employee qualifying reasons for leave, leave duration amounts, and methods for calculating leave pay as previously required under the FFCRA. In addition to the qualifying reasons for leave required under FFCRA, the plan should indicate that a teacher also must be considered to have a qualifying reason for leave if a health care provider determines that the teacher should not work in the school building because the teacher is at increased risk or might be at increased risk for severe illness from COVID‑19 due to having one or more certain underlying conditions as identified by the Centers for Disease Control and Prevention. For purposes of this joint resolution, “severe illness from COVID‑19” means hospitalization, admission to the ICU, intubation or mechanical ventilation, or death.

(B) The State Department of Education shall provide information needed for developing emergency sick leave plans, pursuant to the provisions of this joint resolution, to school districts.

(C) The State Board of Education and local school districts may take no retaliatory action against an employee who takes emergency sick leave under a sick leave plan developed pursuant to this joint resolution.

(D) Within twenty‑one days after the effective date of this joint resolution, districts shall notify the State Department of Education of whether or not they have developed a sick leave plan as recommended by this joint resolution, and shall provide a copy of their plan, if any. Within thirty days after the effective date of this joint resolution, the State Department of Education shall provide a report to the General Assembly indicating which districts did not develop sick leave plans pursuant to this joint resolution and which districts did develop such plans, along with copies of the plans.

SECTION 2. This joint resolution takes effect upon approval by the Governor and expires December 31, 2021.

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