~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 29, 2022

**S. 544**

Introduced by Senator Loftis

S. Printed 3/29/22--S.

Read the first time February 11, 2021.

**THE COMMITTEE ON EDUCATION**

To whom was referred a Bill (S. 544) to amend the Code of Laws of South Carolina, 1976, by adding Section 59‑63‑25 so as to provide an open enrollment option in public schools, and, etc., respectfully

**REPORT:**

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

Amend the bill, by striking all after the enacting words and inserting:

/ SECTION 1. Article 1, Chapter 63, Title 59 of the 1976 Code is amended by adding:

“Section 59‑63‑25. (A) Beginning with the 2023‑2024 school year, each local board of trustees shall follow the policy and procedures established pursuant to this section for extending open enrollment opportunities that allow parents to apply for their child to enroll in any particular program or school.

(B) Using a template developed and provided by the Department of Education and approved by the State Board of Education, each local board of trustees shall develop and adopt an open enrollment policy based on its evaluation of available data reflecting student, school, district, and community needs. The board shall ensure that the policy developed, and data used to develop the policy, and related procedures are posted prominently on the district web site, and shall provide the Department with its policy in a web‑posting format.

(1) The open enrollment policy and process must :

(a) adhere to federal desegregation and other educational requirements;

(b) identify and describe the application requirements, timeline, and communication plan;

(c) allow parents to declare school preferences, including placement of siblings within the same school;

(d) describe lottery and a wait list policies, and an appeal process for adverse decisions;

(e) include the policies adopted by the board regarding capacity standards, standards of approval and denial, priorities of acceptance for enrollment; and transportation;

(f) include a disclosure of:

(i) whether the district will charge nonresident students a fee to cover costs associated with their enrollment that are not covered by federal or state funding;

(ii) itemized fees, including the amount of each fee, charged by the district to nonresident students to cover the costs associated with their enrollment that is not covered by federal and state funding; and

(iii) whether the district has a mitigation or fee waiver process, and a description of such process for any fees charged under this section; and

(g) 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.

(2) In implementing the provisions of this section, a school district may but is not required to :

(a) make alterations in the structure of a requested school or to the arrangement or function of rooms within a requested school;

(b) establish and offer any particular program in a school if such program is not currently offered in the school;

(c) alter or waive any established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance;

(d) expand the capacity of a program or school for the purpose of accommodating increased demand for open enrollment opportunities;

(e) provide transportation to a student accepted pursuant to this section who is attending a school outside of the attendance zone of their residence; however, nothing in this section may be construed to prohibit the district from providing bus transportation on an approved route, from requesting state or federal funds for this purpose, or from entering into an agreement with another district to provide transportation; or

(f) have more than one open enrollment application deadline for intra‑district applications, or for inter‑district applications. Applications shall be accepted no earlier than November 1st in a calendar year with a cut off for applications no later than January 31st of the subsequent calendar year; however, a district may establish one or more subsequent deadlines as may be reasonable and necessary and in conformance with this section.

(3) In complying with this section, a school district is not required to transfer local funds for a student enrolling in a nonresident school district.

(4) The State Board of Education through the State Superintendent of Education shall establish a standard inter‑district open enrollment timeline for parents and districts to follow.

(C)(1) In implementing the provisions of this section, a student who :

(a) currently resides in the attendance zone of a school;

(b) qualifies to attend a school within the attendance zone pursuant to Section 59‑63‑30(c), 59‑63‑31, 59‑63‑425, or 59‑63‑550; or

(c) is a returning student who continues to meet the requirements of the program or school,

must not be displaced by a student transferring from outside the attendance zone.

(2) In the assignment of students for enrollment opportunities remaining after students assigned pursuant to (1), enrollment priority shall be given as follows, unless and until a district has a policy in place in the school year prior to implementation of this section that is revised to conform pursuant to (G):

(a) first, to students who meet the requirements of the program or school and who seek to attend the designated school in the district’s feeder pattern;

(b) second, to the siblings of students residing in the same household already enrolled in the school, provided that any siblings seeking priority under this section meet the requirements of the program or school; and

(c) 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:

(i) for intra‑district open enrollment applicants, then

(ii) if any remaining, for interdistrict open enrollment applicants.

(3) The policies must not have the purpose or effect of causing racial segregation in a school or the school district.

(4) Denial of permission to enroll in a particular program or school may only be provided in the following situations:

(a) there is a documented lack of capacity in the school, level, or program requested, in which case priority must be given to a student who currently resides in the attendance zone of a school;

(b) the school requested does not offer a particular program requested;

(c) the pupil does not meet the established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance;

(d) a desegregation plan is in effect for the school district and the denial is necessary to enable compliance with the desegregation plan;

(e) the student is subject to provisions in Section 59‑63‑210 or Section 59‑63‑217; or

(f) any combination of subitems (a) through (e).

(5) A school or district receiving an application request for enrollment from a student pursuant to this section and district policy shall respond with a written decision accepting or denying the request within thirty days after the application deadline as published.

(a) If a request is denied, the written decision must cite the specific reasons for the denial and include notice of the opportunity for the parent to appeal the denial pursuant to the district grievance policy and timeline developed and adopted pursuant to this Chapter and in accordance with state statute.

(b) If a school or district fails to respond with its written decision within thirty days after the application deadline as published or to respond to a request for a subsequent appeal in a timely manner, the request shall be considered accepted and the student may enroll in the program or school, subject to other applicable laws regarding the enrollment of students in public schools.

(D) An open enrollment policy adopted by a local board of trustees shall:

(1) clearly distinguish intra‑district policies from inter‑district policies;

(2) be reviewed and updated periodically by the board, using the template provided by the Department; and

(3) be submitted initially, and if and as amended, to the Department of Education.

(E) The Department shall include all district open enrollment policies on its School Choice website portal, and shall annually by October first provide an update to the State Board of Education, the Senate Education Committee Chair, and House Education and Public Works Chair on the status, progress, innovations, evolving best practices and challenges of implementing the program, including identifying districts which have not submitted a policy.

(F) A school district in the process of consolidation may apply to the State Board of Education for a waiver from compliance with some or all of the requirements of this chapter until the consolidation is completed. Thereafter, the provisions of this section must apply to the district pursuant to the manner and timeline specified in the waiver request.

(G) Except as provided herein, provisions in this section apply to a district which has a documented open enrollment procedure in place during the school year prior to implementation of this chapter. Using a template provided by the Department, such districts shall develop and submit a plan for conforming to provisions for State Board of Education approval, and annual updates on status of meeting the agreed upon timeline.

SECTION 2. Section 59‑ 63‑30 of the 1976 Code is amended to read:

“Section 59-63-30. ~~Children~~ A pupil within the ages prescribed by Section 59‑63‑20 ~~shall be~~ is entitled to attend the public schools of any school district, without charge, ~~only~~ if ~~qualified under the following provisions of this section~~ the pupil has maintained a satisfactory scholastic record in accordance with scholastic standards of achievement prescribed by the trustees pursuant to Section 59‑19‑90, has not been guilty of an infraction of the rules of conduct promulgated by the trustees of such school district pursuant to Section 59‑19‑90, and:

~~(a)~~(1) ~~Such child~~ resides with ~~its~~ his parent or legal guardian at the parent’s or legal guardian’s primary residence in the school district; or

~~(b)~~ ~~The parent or legal guardian, with whom the child resides, is a resident of any such school district; or~~

~~(c)~~(2) on or before June 30, 2022, ~~The child owns~~ owned real estate in the district having an assessed value of three hundred dollars or more, and attended a school in that district.~~;~~

~~and~~

~~(d)~~ ~~The child has maintained a satisfactory scholastic record in accordance with scholastic standards of achievement prescribed by the trustees pursuant to Section 59‑19‑90; and~~

~~(e)~~ ~~The child has not been guilty of an infraction of the rules of conduct promulgated by the trustees of such school district pursuant to Section 59‑19‑90.~~”

SECTION 3. Section 59‑63‑32 of the 1976 Code is amended to read:

“Section 59‑63‑32. (A) The school district may require an adult seeking to enroll a child who resides with the adult pursuant to Section 59‑63‑31(1)(c) to accept responsibility for making educational decisions concerning the child. These educational decisions may include, but not be limited to, receiving notices of discipline pursuant to Sections 59‑63‑230 and 59‑63‑240, attending conferences with school staff, and granting permission for athletic activities, field trips, and other activities as required.

(B) The school district also must require an adult to complete and sign an affidavit:

(1) confirming the qualifications set out in Section 59‑63‑31(A)(1)(c) establishing residency of the child in the school district;

(2) attesting that the child’s claim of residency in the district is not primarily related to attendance or achieving an unreasonable advantage in enrollment priority at a particular school within the district; and

(3) accepting responsibility for educational decisions for the child.

(C) Upon receipt of the affidavit provided for in subsection (B), the child must be admitted to an appropriate school pending the results of any further procedures for determining eligibility and priority for attendance within the school district.

(D) If it is found that information contained in the affidavit provided for in subsection (B) is false, the child must be removed from the school after notice of an opportunity to appeal the removal pursuant to the appropriate district grievance policy.

(E) If it is found that a person wilfully and knowingly has provided false information in the affidavit provided for in subsection (B) to enroll a child in a school or district for which the child is not eligible or eligible for enrollment priority, the maker of the false affidavit is guilty of a misdemeanor and, upon conviction, must be fined an amount not to exceed two hundred dollars or imprisoned for not more than thirty days and also must be required to pay to the school district an amount equal to the cost to the district of educating the child during the period of enrollment. Repayment does not include funds paid by the State.

(F) The affidavit which is required by school districts under this section must include, in large print, the penalty for providing false information on the affidavit.”

SECTION 4. Section 59‑63‑480 of the 1976 Code is amended to read :

“Section 59‑63‑480. If ~~school children~~ a pupil in one county ~~reside~~ resides closer to ~~schools~~ a school in a school district located in an adjacent county, ~~they~~ then he may attend ~~such schools upon~~ that school by applying for enrollment through the applicable school district’s open enrollment procedures and policies. Alternatively, the school ~~authorities~~ district board of trustees of the school district in which the pupil resides ~~of the county of their residence arranging~~ may arrange with the school ~~officials~~ district board of trustees of the school district in the adjacent county for ~~such~~ admission to the school and upon payment of appropriate charges as ~~herein authorized~~ as provided for in this section. The school board of trustees in the school district in which the ~~pupils reside~~ pupil resides shall make written application for the pupil’s admission ~~through its county board of education~~ to the school board of trustees of the district in which the school is located ~~for the admission~~ ~~of such children~~.~~,~~ The written application must include the pupil’s age, ~~giving full information as to ages,~~ residence, and school attainment~~,~~. Upon receipt of the pupil’s application, the school board of trustees of the receiving school district shall calculate the monthly per pupil cost not covered by State funds. Upon proper arrangement being made for the monthly payment of the per pupil cost not covered by State funds, the pupil shall be admitted to the school in the adjacent county. ~~and the~~ The board of trustees in the receiving school district, agreeing to accept ~~such pupils~~ the pupil, shall give a written statement of agreement to the school district board of trustees in the school district in which the pupil resides. ~~Upon receipt of such application the board of trustees of the school and its county board of education shall determine the monthly per pupil cost of all overhead expenses of the school, which will include all expenses of the school not paid by the State. Upon proper arrangement being made for the payment monthly of such overhead per pupil cost for each such child the same shall be admitted to the schools of the adjacent county.~~”

SECTION 5. Section 59‑63‑500 of the 1976 Code is repealed .

SECTION 6. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, then such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 7. 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**

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:

o for intra-district open enrollment applicants, then

o 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

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑63‑25 SO AS TO PROVIDE AN OPEN ENROLLMENT OPTION IN PUBLIC SCHOOLS, AND TO PROVIDE RELATED APPLICATION AND ENROLLMENT PROCEDURES; TO AMEND SECTION 59‑40‑145, RELATING TO INTERDISTRICT ATTENDANCE IN CHARTER SCHOOLS, SECTION 59‑63‑30, RELATING TO PUBLIC SCHOOL ATTENDANCE QUALIFICATIONS, SECTION 59‑63‑32, RELATING TO PUBLIC SCHOOL ENROLLMENT REQUIREMENTS, AND SECTION 59‑63‑480, RELATING TO PUBLIC SCHOOL ATTENDANCE REQUIREMENTS IN ADJACENT COUNTIES, ALL SO AS TO MAKE CONFORMING CHANGES; TO REPEAL SECTION 59‑63‑45, RELATING TO INTERDISTRICT STUDENT TRANSFER REIMBURSEMENTS, AND SECTION 59‑63‑500, RELATING TO INTERDISTRICT STUDENT TRANSFER CONSENT; AND TO MAKE THE PROVISIONS OF THIS ACT EFFECTIVE JULY 1, 2021.

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

SECTION 1. Article 1, Chapter 63, Title 59 of the 1976 Code is amended by adding:

“Section 59‑63‑25. (A) Except as otherwise provided in subsection (C)(3), every school district, as defined in Section 59‑1‑160, and charter school, as defined in Section 59‑40‑40, shall allow:

(1) its resident pupils who apply pursuant to the procedures established in subsection (B) to enroll in a particular program or school within such school district; and

(2) commencing with the 2022‑2023 School Year and thereafter, nonresident pupils from other school districts within the State who apply pursuant to the procedures established in subsection (B) to enroll in a particular program or school within the school district or charter school.

(B)(1) A district school board shall adopt by rule and post on its website the process required to participate in open enrollment. The process must:

(a) adhere to federal desegregation requirements;

(b) allow parents to declare school preferences, including placement of siblings within the same school;

(c) provide a lottery procedure to determine student assignment and establish an appeal process for hardship cases;

(d) identify schools that have not reached capacity, as determined by the school district;

(e) ensure that each district school board adopts a policy to provide preferential treatment pursuant to subsection (C)(1); and

(f) describe whether the district will charge nonresident students a fee to cover costs associated with their enrollment that are not covered by federal, state, or local funding.

(2) In implementing the provisions of subsection (A), a school district may not be required to:

(a) make alterations in the structure of a requested school or to make alterations to the arrangement or function of rooms within a requested school;

(b) establish and offer any particular program in a school if such program is not currently offered in the school;

(c) alter or waive any established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance; or

(d) provide transportation to nonresident students who enroll pursuant to this section.

(C)(1) A district school board must provide preferential treatment in its open enrollment process to all of the following:

(a) dependent children of active‑duty military personnel whose move resulted from military orders;

(b) children who have been relocated due to a foster care placement in a different school zone;

(c) children who move due to a court ordered change in custody due to separation or divorce or the serious illness or death of a custodial parent;

(d) students residing in the school district; and

(e) children entitled to attend school pursuant to a qualifying reason as stated in Section 59‑63‑31.

(2) A school district may deny any of its resident pupils or any nonresident pupils from other school districts within the State permission to enroll in a particular program or school within the school district only if:

(a) there is a lack of space or teaching staff within a particular program or school requested, in which case, priority must be given to resident students applying for admission to the program or school;

(b) the school requested does not offer a particular program requested;

(c) the pupil does not meet the established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance;

(d) a desegregation plan is in effect for the school district, and the denial is necessary to enable compliance with the desegregation plan;

(e) the student has been expelled, or is in the process of being expelled, for the reasons specified in Section 59‑63‑210 or the student may be denied permission to enroll pursuant to Section 59‑63‑217; or

(f) any combination of subitems (a) through (e).

(3) A school receiving a request for enrollment from a nonresident student must issue a written decision accepting or denying the request within ten days after receiving the request for enrollment. If a request is denied, the written decision must cite the school’s specific reasons for the denial. If a school fails to issue a written decision within the time period required in this item, the request must be considered accepted and the nonresident student may enroll within the school district, subject to other applicable laws regarding the enrollment of students in public schools.

(4)(a) A student who attempts to enroll in a school district in which he does not reside and is denied enrollment pursuant to this section may appeal the decision to the school board of trustees of the district in which the student wishes to enroll. The student shall submit a request for a hearing to the school board of trustees within ten days after receiving the denial of enrollment. The student is entitled to a prompt and fair hearing by the school board of trustees, which shall try the matter de novo and in accordance with its rules and regulations. At the hearing, parties may be represented by counsel and are permitted to present relevant evidence, including calling and questioning witnesses. The school board shall ensure a transcript of the proceeding is recorded. The school board shall hold the hearing within thirty days after receiving a written request, unless the parties mutually agree otherwise, and shall issue a written order within ten days after the hearing. The written order must contain findings of fact, conclusions of law, and the disposition of the matter.

(b) A party aggrieved by the decision of the school board shall 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. The appealing party shall file its appeal within thirty days of the issuance of the written decision provided in subitem (a). The school board shall certify to the court the record of the proceedings upon which its written order was based, and the court shall admit the record as evidence and consider the record, along with any additional evidence either of the parties wish to present. A student who prevails in an action in the circuit court pursuant to this subitem may recover reasonable attorney’s fees and costs associated with the action.

(5) As part of its open enrollment process, a charter school may give enrollment priority and preference to students as set forth in Section 59‑40‑50(B)(7) and (8). A charter school annually shall post on its website the application process required to participate in open enrollment, consistent with this section, Section 59‑40‑50, and its charter contract.

(6) A student who resides in a school district may not be displaced by a student from another district seeking enrollment under the open enrollment process.

(7) For purposes of continuity of educational choice, a student who transfers pursuant to this section may remain at the school chosen by the parent or guardian until the student completes the highest grade level at the school.”

SECTION 2. Section 59‑40‑145 of the 1976 Code is amended to read:

“Section 59‑40‑145. A child who resides in a school district other than the one where a charter school is located may attend a charter school outside his district of residence; however, the receiving charter school shall have authority to grant or deny permission for the student to attend pursuant to Sections 59‑40‑40(2)(b) and 59‑40‑50(B)(7) and (8) according to the terms of the charter after in‑district children have been given priority in enrollment. ~~However, the out‑of‑district enrollment shall not exceed twenty percent of the total enrollment of the charter school without the approval of the sponsoring district board of trustees.~~ The district sending children to the charter school under the terms of this section must be notified immediately of the transferring students. Out‑of‑district students must be considered based on the order in which their applications are received. ~~If the twenty percent out‑of‑district enrollment is from one school district, then the sending district must concur with any additional students transferring from that district to attend the charter school.~~ The charter school to which the child is transferring shall be eligible for state and federal funding according to the formula defined in Section 59‑40‑140(A), (B), and (C), as applicable. However, this section does not apply to a charter school sponsored by the South Carolina Public Charter School District Board of Trustees, a public institution of higher learning, or an independent institution of higher learning.”

SECTION 3. Section 59‑63‑30 of the 1976 Code is amended to read:

“Section 59‑63‑30. Children within the ages prescribed by Section 59‑63‑20 ~~shall be~~ are entitled to attend the public schools of any school district, without charge, ~~only~~ if ~~qualified under the following provisions of this section~~:

(a) ~~Such child resides with its parent or legal guardian;~~

~~(b) The parent or legal guardian, with whom the child resides, is a resident of such school district; or~~

~~(c) The child owns real estate in the district having an assessed value of three hundred dollars or more; and~~

~~(d)~~ the child has maintained a satisfactory scholastic record in accordance with scholastic standards of achievement prescribed by the trustees pursuant to Section 59‑19‑90; and

~~(e)~~(b) the child has not been guilty of infraction of the rules of conduct promulgated by the trustees of such school district pursuant to Section 59‑19‑90.”

SECTION 4. Section 59‑63‑32(B) of the 1976 Code is amended to read:

“(B) The school district also must require an adult to complete and sign an affidavit:

(1) confirming the qualifications set out in Section 59‑63‑31(1)(c) ~~establishing residency of the child in the school district~~; and

(2) ~~attesting that the child’s claim of residency in the district is not primarily related to attendance at a particular school within the district; and~~

~~(3)~~ accepting responsibility for educational decisions for the child.”

SECTION 5. Section 59‑63‑480 of the 1976 Code is amended to read:

“Section 59‑63‑480. If school children in one county reside closer to schools in an adjacent county, they may attend such schools ~~upon~~ by applying for enrollment through the applicable school district’s open enrollment procedures and policies. Alternatively, the school authorities of the county of their residence ~~arranging~~ may arrange with the school officials of the adjacent county for such admission and upon payment of appropriate charges as herein authorized. The board of trustees in the school district in which the pupils reside shall make written application through its county board of education to the board of trustees of the district in which the school is located for the admission of such children, giving full information as to ages, residence and school attainment, and the board of trustees in the school district, agreeing to accept such pupils, shall give a written statement of agreement. Upon receipt of such application the board of trustees of the school and its county board of education shall determine the monthly per pupil cost of all overhead expenses of the school, which will include all expenses of the school not paid by the State. Upon proper arrangement being made for the payment monthly of such overhead per pupil cost for each such child the same shall be admitted to the schools of the adjacent county.”

SECTION 6. Sections 59‑63‑45 and 59‑63‑500 of the 1976 Code are repealed.

SECTION 7. This act takes effect on July 1, 2021.

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