COMMITTEE REPORT

May 3, 2022

**S. 615**

Introduced by Senators Young and Campsen

S. Printed 5/3/22--H.

Read the first time April 6, 2021.

**THE COMMITTEE ON EDUCATION AND PUBLIC WORKS**

To whom was referred a Bill (S. 615) to amend Section 59‑63‑100 of the 1976 Code, relating to nonpublic school student participation in the interscholastic activities of public schools, to provide limited situations in which, 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. Section 59‑63‑100 of the 1976 Code is amended by adding appropriately lettered subsections to read:

“( )(1) Notwithstanding the provisions of this section, individual students who attend private schools in this State may not be denied by a public school district the opportunity to try out for and, if selected, participate in an interscholastic athletic program offered at a public school in the district if the:

(a) student resides within the attendance zone boundaries of the public school;

(b) private school that the student attends is not a member of the South Carolina High School League;

(c) private school attended by the student does not offer the particular sport for the student’s gender;

(d) particular sport in which the student seeks to participate is offered at the public school located in the attendance zone where the student resides;

(e) student notifies the superintendent of the public school district in writing of his intent to try out in the particular sport as a representative of the public school before the beginning date of the season for the sport in which he wishes to try out;

(f) student pays for all sport‑specific fees charged by the public school for an individual student to participate in the particular sport; and

(g) student meets all public school district eligibility requirements with the exception of enrollment in the public school.

(2) A public school district may not contract with a private entity that supervises interscholastic athletic programs if the private entity prohibits the participation of private school students in interscholastic athletic programs supervised by the entity, or if the private entity prohibits public school students from participating in private school athletics as authorized by this subsection.

(3) Eligibility requirements for new students to participate in interscholastic athletics shall be no more restrictive in language or application than the rules or policies of the association, body, or entity that were in effect on January 1, 2020.”

(4) Prior to participation in public school athletics, a private school that meets eligibility requirements of this section and whose student or students elect to try out for public school athletics shall enter into an agreement with the public school district board of trustees allowing reciprocity for public school students. Public school students may try out for and, if selected, participate in interscholastic athletic programs offered at the private school if the:

(a) private school is not a member of the South Carolina High School League or its successor;

(b) public school attended by the student does not offer the particular sport for the student’s gender;

(c) particular sport in which the student seeks to participate is offered at the private school;

(d) student notifies the leader of the private school of his intent to try out for the particular sport as a representative of the private school before the beginning date of the season for the sport in which he wishes to try out;

(e) student pays for all sport‑specific fees charged by the private school for an individual student to participate in the particular sport; and

(f) student continues to meet meets all public school district eligibility requirements.

(5) The percentage of private school students on a public school athletic team may not exceed ten percent; however a school may allow an additional student to play if the number of private school students equates to a percentage less than ten and the next student would place the school over the ten percent cap;

(6) For the purposes of this subsection, ‘public school’ has the same meaning as in Section 59‑1‑120 and does not include schools created by and operated pursuant to Chapter 40 of Title 59 of the South Carolina Code of Laws.”

B. Section 59‑63‑100(A) of the 1976 Code is amended by adding an appropriately numbered new item to read:

“( ) ‘Private school’ means a school:

(a) established by an entity other than the State or a subdivision of the State;

(b) supported primarily by private or nonpublic funds; and

(c) operated by private individuals operating in their private capacity and not by people who are publicly elected or appointed to operate the school.”

SECTION 2. (A) The provisions of this act shall not be construed as imputing any public school academic, athletic, or extracurricular policies or procedures to any private school that a student attends if that student also participates in a public high school league sport pursuant to the terms of this act outside of the requirements related to maintaining a certain grade‑point average and grade level for participating in and attending regularly scheduled practices of the sports team. In order to be eligible to participate, a public school student shall adhere to all rules and requirements of the private school and private school team or activity that are not specified in subsection (B).

(B) A private school may not require a higher grade point average, more rigorous attendance requirement, or different grade level for any public school student than what is applicable to its own students. If a private school unilaterally alters the requirements for athletic participation, the public school district may consider the reciprocal agreement null and void, and may prohibit participation of private school students without penalty until a new agreement is reached.

SECTION 3. Section 59‑63‑100 of the 1976 Code is amended by adding an appropriately lettered subsection to read:

“( ) A charter school may not contract with a private entity that supervises, sanctions, or regulates interscholastic competitions unless the entity requires that when a charter school member accepts a student from outside of the public school attendance zone in which the charter school is located, the charter school is consequently required to compete at a classification level of competition that is two levels above the classification level in which the charter school otherwise would participate based on its enrollment. This item does not apply to a charter school already competing at the highest classification level of competition. A charter school covered by this item that competes at the next to highest level of competition shall be required to compete at the highest classification level of competition.”

SECTION 4. 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 5. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

MERITA A. ALLISON for Committee.

**A** **BILL**

TO AMEND SECTION 59‑63‑100 OF THE 1976 CODE, RELATING TO NONPUBLIC SCHOOL STUDENT PARTICIPATION IN THE INTERSCHOLASTIC ACTIVITIES OF PUBLIC SCHOOLS, TO PROVIDE LIMITED SITUATIONS IN WHICH HIGH SCHOOL STUDENTS WHO ATTEND PRIVATE SCHOOLS MAY PARTICIPATE IN HIGH SCHOOL LEAGUE SPORTS OFFERED AT PUBLIC HIGH SCHOOLS; AND TO DEFINE NECESSARY TERMS.

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

SECTION 1. A. Section 59‑63‑100 of the 1976 Code is amended by adding appropriately lettered new subsections at the end to read:

“( )(1) Notwithstanding the provisions of this section, individual students who attend private schools in this State may not be denied by a public school district the opportunity to try out for and, if selected, participate in an interscholastic athletic program offered at a public school in the district if the:

(a) student resides within the attendance zone boundaries of the public school;

(b) private school that the student attends is not a member of the South Carolina High School League and the private school’s enrollment for grades nine through twelve does not exceed two hundred students;

(c) private school attended by the student does not offer the particular sport for the student’s gender;

(d) particular sport in which the student seeks to participate is offered at the public school located in the attendance zone where the student resides;

(e) student notifies the superintendent of the public school district in writing of his intent to try out in the particular sport as a representative of the public school before the beginning date of the season for the sport in which he wishes to try out;

(f) student pays for all sport-specific fees charged by the public school for an individual student to participate in the particular sport; and

(g) student meets all public school district eligibility requirements with the exception of the:

(i) school district’s school or class attendance requirements; and

(ii) class and enrollment requirements of the association administering the interscholastic sports.

(2) A public school district may not contract with a private entity that supervises interscholastic athletic programs if the private entity prohibits the participation of private school students in interscholastic athletic programs supervised by the entity.”

(3) Eligibility requirements for new students to participate in interscholastic athletics shall be no more restrictive in language or application than the rules or policies of the association, body, or entity that were in effect on January 1, 2020.”

B. Section 59‑63‑100(A) of the 1976 Code is amended by adding an appropriately numbered new item to read:

“( ) ‘Private school’ means a school:

(a) established by an entity other than the State or a subdivision of the State;

(b) supported primarily by private or nonpublic funds; and

(c) operated by private individuals operating in their private capacity and not by people who are publicly elected or appointed to operate the school.”

SECTION 2. The provisions of this act shall not be construed as imputing any public school academic, athletic, or extracurricular policies or procedures to any private school that a student attends if that student also participates in a public high school league sport pursuant to the terms of this act outside of the requirements related to maintaining a certain grade-point average and grade level for participating in and attending regularly scheduled practices of the sports team.

SECTION 3. 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 4. This act takes effect upon approval by the Governor.

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