COMMITTEE REPORT

March 30, 2022

**S. 945**

Introduced by Senator Hembree

S. Printed 3/30/22--S.

Read the first time January 11, 2022.

**THE COMMITTEE ON EDUCATION**

To whom was referred a Bill (S. 945) to amend the Code of Laws of South Carolina, 1976, by adding Section 59‑19‑85 so as to promote public access to school board meetings by requiring school, 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. Article 1, Chapter 19, Title 59 of the 1976 Code is amended by adding:

“Section 59‑19‑85. (A) For the purpose of increasing public engagement in district business and making the decision‑making process more visible and accessible to the community it serves, each public school governing body, including the governing bodies of charter schools and special schools, must make reasonable and necessary efforts to ensure the entirety of meetings of its regularly scheduled or special called meetings of its full governing body are open and accessible to the public and also available by means of live electronic access, such as livestream transmission, except during a lawful executive session.

(B) Even if a governing body cannot provide such live electronic public access despite making reasonable and necessary efforts to restore livestream transmission during the meeting, it must make a clear audio and video recording of the meeting in its entirety available on its website as soon as practicable and in no event more than two business days after the meeting.

(C) The State Board of Education shall adopt, and revise as necessary, a model livestream meeting policy suitable for governing bodies of public schools, including charter and special schools, to comply with provisions in this section. The policy must include, at a minimum:

(1) resources, recommendations, and best practices facilitating requirements for all portions of streamed meetings to be visible and audible in real‑time and subsequently posted on applicable websites within two business days of the meeting; and

(2) suggested approaches for developing and implementing livestreaming and expanding or improving existing livestream capacity;

(3) publicizing availability of livestream meetings;

(4) allowances for executive sessions; and

(5) penalties for policy violations or noncompliance not to exceed one percent of state funds to the district, charter school, or special school, with escalating tiers based on frequency, duration, and severity that the State Board of Education determines are reasonable and necessary to ensure the integrity of meeting governance.

(D)(1) Each public school governing body, including the governing bodies of charter schools and special schools, shall adopt a local policy applicable to its meetings within three months after adoption of the model policy by the State Board of Education. A local policy must include, at a minimum, the State Board of Education model policy.

(2) If the State Board of Education adopts a revision to the model policy, then the governing body shall adopt and incorporate the revision into its local policy within three months after the adoption of the revision by the State Board of Education.

(3) A governing body only may adopt or revise its local policy at a regularly scheduled meeting, which must be successfully livestreamed.

(4) A governing body may not adopt or follow a livestream policy that prevents or impedes in‑person participation by the public except as may be reasonable and necessary for the orderly transaction of its business.

(5) Within thirty days after adoption of a local policy or revision to the policy, a governing body shall submit a copy of the policy or revision to the State Superintendent of Education for State Board of Education approval.”

SECTION 2. The provisions of this act must be implemented before July 1, 2023.

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 each public school governing body, including the governing bodies of charter schools and special schools, to make necessary efforts to ensure its meetings are accessible to the public by means of livestream transmission. If a governing body cannot provide such livestream transmission, it must make a clear audio and video recording of the meeting and place the recording on its website no more than two business days after the meeting. The State Board of Education must adopt a model livestream meeting policy to comply with the provisions of the bill. The policy must include certain criteria, including penalties for policy violations or non-compliance. Penalties for policy violations or non-compliance may not exceed one percent of state funds to the district. The governing body of each public school, charter school, and special school must adopt a local policy within three months after adoption of the policy by the State Board of Education. Local policies must include, at a minimum, the State Board of Education model policy. Any revisions to the State Board of Education’s model policy or local policies must be adopted and incorporated in the same manner as the original requirements. A governing body may only adopt its local policy or make changes at a regularly scheduled meeting. The provisions of the bill must be implemented before July 1, 2023.

**State Department of Education.** SCDE indicates that any expenses to adopt a model livestream meeting policy for school districts can be managed within existing appropriations. Therefore, the bill will have no expenditure impact on the agency.

**State Agency Schools.** This bill is not expected to have an expenditure impact on the state agency schools. The South Carolina Governor’s School for Agriculture at John de la Howe indicates that any expenses associated with livestreaming board meetings will be minimal and can be managed within existing appropriations. The School for the Deaf and Blind indicates that the bill will have no expenditure impact since the agency currently has the capability to livestream meetings. The Wil Lou Gray Opportunity School also indicates that the bill will also have no expenditure impact since the agency has a plan in place to livestream meetings and to provide a video recording of meetings. Based upon these responses, we do not anticipate that the bill will have an expenditure impact on the Governor’s School for the Arts and Humanities or the Governor’s School for Science and Mathematics. However, the expenditure impact could change depending upon the type of model policy adopted by the State Board of Education. We will update this impact statement if the Governor’s Schools’ provide a response that alters this impact.

**State Revenue**

This bill requires each public school governing body, including the governing bodies of charter schools and special schools, to make necessary efforts to ensure its meetings are accessible to the public by means of livestream transmission. The State Board of Education must adopt a model livestream meeting policy to comply with the provisions of the bill. The policy must include certain criteria, including penalties for policy violations or non-compliance. Penalties for policy violations or non-compliance may not exceed one percent of state funds to the district with escalating tiers based on frequent, duration, and severity that the State Board of Education determines reasonable and necessary.

The revenue impact on the special school districts for violations or non-compliance of the livestream meeting policy is undetermined as it is unknown how many districts will not comply with the provisions of the bill. Additionally, the amount of state funds to be withheld will vary by district.

**Local Expenditure**

As noted above, this bill requires each public school governing body, including the governing bodies of charter schools and special schools, to make necessary efforts to ensure its meetings are accessible to the public through livestream transmission.

SCDE surveyed the seventy-seven regular school districts and the two charter districts and received responses from forty-five districts. Of the responding districts, thirty indicate that the bill will have no expenditure impact since they currently livestream board meetings. Two districts indicate that the bill would increase expenses but could not quantify the cost. The remaining thirteen responding districts indicate expenses would increase by a range of $900 to $100,000 per district for equipment, onsite support, and overtime for staff. Due to the varying responses from the responding districts and the type of policy to be adopted by the State Board of Education being unknown, the expenditure impact of this bill on local school districts is undetermined.

**Local Revenue**

The revenue impact on local school districts for violations or non-compliance of the livestream meeting policy is undetermined as it will depend on how many districts do not comply with the provisions of the bill. Additionally, the amount of state funds to be withheld will vary by district.

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 59‑19‑85 SO AS TO PROMOTE PUBLIC ACCESS TO SCHOOL BOARD MEETINGS BY REQUIRING SCHOOL BOARDS TO ADOPT AND IMPLEMENT POLICIES THAT PROVIDE LIVE ELECTRONIC TRANSMISSION OF SUCH MEETINGS, TO EXTEND APPLICABILITY OF THESE PROVISIONS TO THE GOVERNING BODIES OF CHARTER SCHOOLS AND SPECIAL SCHOOLS, TO PROVIDE FLEXIBILITY IN CERTAIN CIRCUMSTANCES, AND TO PROVIDE RELATED REQUIREMENTS OF THE STATE BOARD OF EDUCATION; AND TO PROVIDE THE PROVISIONS OF THIS ACT MUST BE IMPLEMENTED BEFORE JULY 1, 2023.

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

SECTION 1. Article 1, Chapter 19, Title 59 of the 1976 Code is amended by adding:

“Section 59‑19‑85. (A) For the purpose of increasing public engagement in district business and making the decision‑making process more visible and accessible to the community it serves, each public school governing body, including the governing bodies of charter schools and special schools, shall make reasonable and necessary efforts to ensure its meetings are open and accessible to public attendance by means of live electronic access, such as livestream transmission, to the public.

(B) If a governing body cannot provide such live electronic public access despite making reasonable and necessary efforts, it must make a clear audio and video recording of the meeting in its entirety available on its website as soon as practicable and in no event more than two business days after the meeting.

(C) The State Board of Education shall adopt, and revise as necessary, a model livestream meeting policy suitable for governing bodies of public schools, including charter and special schools, to comply with provisions in this section. The policy must include, at a minimum:

(1) resources, recommendations, and best practices facilitating requirements for all portions of streamed meetings to be visible and audible in real‑time and subsequently posted on applicable websites within two business days of the meeting;

(2) suggested approaches for developing and implementing livestreaming and expanding or improving existing livestream capacity;

(3) publicizing availability of livestream meetings;

(4) allowances for executive sessions; and

(5) penalties for policy violations or noncompliance not to exceed one percent of state funds to the district with escalating tiers based on frequency, duration, and severity that the State Board of Education determines are reasonable and necessary to ensure the integrity of meeting governance.

(D)(1) Each public school governing body, including the governing bodies of charter schools and special schools, shall adopt a local policy applicable to its meetings within three months after adoption of the model policy by the State Board of Education. A local policy must include, at a minimum, the State Board of Education model policy.

(2) If the State Board of Education adopts a revision to the model policy, then the governing body shall adopt and incorporate the revision into its local policy within three months after the adoption of the revision by the State Board of Education.

(3) A governing body only may adopt its local model policy or any changes to that local policy at a regularly scheduled meeting.

(4) A governing body may not adopt or follow a livestream policy that prevents or impedes public attendance and participation except as may be reasonable and necessary for the orderly transaction of its business.

(5) Within thirty days after adoption of a local policy or revision to the policy, a governing body shall submit a copy of the policy or revision to the State Superintendent of Education for State Board of Education approval.

(6) The provisions of this section may not be construed to repeal, replace, or preclude application of another statute.”

SECTION 2. The provisions of this act must be implemented before July 1, 2023.

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

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