**South Carolina General Assembly**

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**H. 4564**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Crawford, Daning, Bales and M.A. Pitts

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Introduced in the House on February 17, 2010

Currently residing in the House Committee on **Education and Public Works**

Summary: Teachers

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/17/2010 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2010\02-17-10.docx)‑8

2/17/2010 House Referred to Committee on **Education and Public Works** [HJ](file:///h:\HJ%20Archive\2010\02-17-10.docx)‑9

**VERSIONS OF THIS BILL**

[2/17/2010](file:///p:\pprever\2009-10\4564_20100217.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 70 TO TITLE 40 SO AS TO CREATE THE BOARD OF TEACHER CERTIFICATION UNDER THE ADMINISTRATION OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, TO PROVIDE FOR ITS MEMBERSHIP, MEMBER TERM LIMITS, MEETINGS, AND LEADERSHIP; TO AMEND SECTION 40‑1‑40, RELATING TO THE DOMAIN OF THE DEPARTMENT OF LABOR, LICENSING AND REGULATION, SO AS TO INCLUDE THE BOARD ON TEACHER CERTIFICATION WITHIN IT; TO AMEND SECTION 59‑25‑110, RELATING TO THE SYSTEM FOR EXAMINATION AND CERTIFICATION FOR TEACHERS, SECTION 59‑25‑115, AS AMENDED, RELATING TO FINGERPRINT REVIEW FOR TEACHER APPLICANTS, SECTION 59‑25‑130, RELATING TO RECORD OF TEACHERS’ CERTIFICATES, SECTION 59‑25‑140, RELATING TO FEES FOR DUPLICATE CERTIFICATES, SECTION 59‑25‑150, RELATING TO REVOCATION OR SUSPENSION OF A CERTIFICATE, SECTION 59‑25‑160, RELATING TO REVOCATION OR SUSPENSION OF A CERTIFICATE, SECTION 59‑25‑170, RELATING TO NOTICE AND OPPORTUNITY TO BE HEARD UPON REVOCATION OR SUSPENSION OF A CERTIFICATE, SECTION 59‑25‑180, RELATING TO NOTICE TO DISTRICT BOARD OF TRUSTEES UPON REVOCATION OR SUSPENSION OF A CERTIFICATE, SECTION 59‑25‑190, RELATING TO PAYMENT OF SALARY UPON REVOCATION OR SUSPENSION OF A CERTIFICATE, SECTION 59‑25‑200, RELATING TO HEARINGS UPON REVOCATION OR SUSPENSION OF A CERTIFICATE, SECTION 59‑25‑210, RELATING TO SUBPOENAS AND OATHS UPON REVOCATION OR SUSPENSION OF A CERTIFICATE, SECTION 59‑25‑240, RELATING TO SERVICE OF SUBPOENAS AND WITNESS FEES UPON REVOCATION OR SUSPENSION OF A CERTIFICATE, SECTION 59‑25‑250, RELATING TO POWERS AND DUTIES OF THE COURT OF COMMON PLEAS UPON REVOCATION OR SUSPENSION OF A CERTIFICATE, SECTION 59‑25‑260, AS AMENDED, RELATING TO APPEAL OF A DECISION TO REVOKE OR SUSPEND A CERTIFICATE, SECTION 59‑25‑270, RELATING TO REINSTATEMENT UPON REVOCATION OR SUSPENSION OF A CERTIFICATE, SECTION 59‑25‑280, RELATING TO CRIMES WARRANTING REVOCATION OF A CERTIFICATE, AND SECTIONS 59‑25‑310 AND 59‑25‑330, BOTH RELATING TO ABCTE CERTIFICATION, ALL SO AS TO PROVIDE THAT THE BOARD OF TEACHER CERTIFICATION HAS EXCLUSIVE AUTHORITY TO REGULATE THE CERTIFICATION OF TEACHERS, TO PROVIDE FURTHER CONFORMING CHANGES, AND TO CORRECT ARCHAIC LANGUAGE; TO PROVIDE THAT ALL POWERS, DUTIES, AND RESPONSIBILITIES OF THE STATE BOARD OF EDUCATION WITH REGARD TO TEACHER CERTIFICATION MUST BE DEVOLVED TO THE BOARD OF TEACHER CERTIFICATION UPON THE EFFECTIVE DATE OF THIS ACT; AND TO PROVIDE THAT ALL REGULATIONS PROMULGATED BY THE STATE BOARD OF EDUCATION WITH REGARD TO TEACHER CERTIFICATION ARE DEEMED TO HAVE BEEN PROMULGATED BY THE BOARD OF TEACHER CERTIFICATION UPON THE EFFECTIVE DATE OF THIS ACT.

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

SECTION 1. Title 40 of the 1976 Code is amended by adding:

“CHAPTER 70

Teachers

Section 40‑70‑100. (A) There is created the Board of Teacher Certification under the administration of the Department of Labor, Licensing and Regulation. The purpose of this board is to regulate the certification of teachers in South Carolina.

(B) The Board of Teacher Certification shall consist of seven persons, all of whom must be teachers and residents of the State. Of the seven members, six must be teachers, one from each congressional district of the State. One member must be at large from the general public and must be selected and appointed by the Governor. Nominations for the Governor’s appointee may be submitted to the Governor by the board or by an individual, group, or association.

(C) Members shall serve terms of three years and until their successors are appointed and qualified.

(D) Members of the board are entitled to per diem, subsistence, and mileage as is provided by law for members of state boards, committees, and commissions.

(E) The board shall meet at least once each calendar quarter, or as often as necessary, and shall remain in session as long as the chairman considers it necessary to give full consideration to the business before the board.

(F) The board annually shall elect from its total membership a chairman, vice chairman, and other officers the board determines necessary. The board may adopt an official seal and shall adopt rules and procedures reasonably necessary for the performance of its duties and the governance of its operations and proceedings.

(G) A board member is required to attend meetings or to provide proper notice and justification of his or her inability to do so.

(H) Vacancies on the board must be filled for the unexpired portion of the term in the manner of the original appointment.”

SECTION 2. Section 40‑1‑40(B) of the 1976 Code is amended to read:

“(B) The following boards and the professions and occupations they license or otherwise regulate must be administered by the Department of Labor, Licensing and Regulation pursuant to this article:

Board of Accountancy

Board of Architectural Examiners

Athletic Commission

Auctioneers Commission

Board of Barber Examiners

Accessibility Committee of the Building Codes Council

Building Code Council

Board of Chiropractic Examiners

Contractors’ Licensing Board

Board of Cosmetology

Board of Dentistry

Engineers and Land Surveyors Board

Environmental Certification Board

Board of Registration for Foresters

Board of Funeral Service

Board of Registration for Geologists

Manufactured Housing Board

Board of Medical Examiners

Modular Buildings Board of Appeals

Board of Nursing

Long Term Health Care Administrators Board

Board of Occupational Therapy

Board of Examiners in Opticianry

Board of Examiners in Optometry

Board of Pharmacy

Board of Physical Therapy Examiners

Pilotage Commission

Board of Podiatry Examiners

Board of Examiners for Licensure of Professional Counselors and Marital and Family Therapists

Board of Examiners in Psychology

Board of Pyrotechnic Safety

Real Estate Appraisers Board

Real Estate Commission

Residential Builders Commission

Board of Social Work Examiners

Commission on the Teaching Profession

Board of Examiners in Speech‑Language Pathology and Audiology

Board of Veterinary Medical Examiners”

SECTION 3. Section 59‑25‑110 of the 1976 Code is amended to read:

“Section 59‑25‑110. The ~~State~~ Board of ~~Education~~ Teacher Certification, by rules and regulations, shall formulate and administer a system for the examination and certification of teachers.”

SECTION 4. Section 59‑25‑115 of the 1976 Code, as last amended by Act 195 of 2004, is further amended to read:

“Section 59‑25‑115. (A) A person enrolled in a teacher education program in South Carolina must be advised by the college or university that his prior criminal record could prevent certification as a teacher in this State in accordance with ~~State~~ Board of ~~Education~~ Teacher Certification guidelines.

(B) Before beginning full‑time clinical teaching experience in this State, a teacher education candidate shall undergo a state criminal records check by the South Carolina Law Enforcement Division and a national criminal records check supported by fingerprints by the Federal Bureau of Investigation. The cost associated with the FBI background checks are those of the applicant. Information reported relative to prior arrests or convictions will be reviewed by the State Department of Education, and the ~~State~~ Board of ~~Education~~ Teacher Certification when warranted, according to board guidelines. A teacher education candidate with prior arrests or convictions of a serious nature that could affect his fitness to teach in the public schools of South Carolina may be denied the opportunity to complete the clinical teaching experience and qualify for initial teacher certification. An individual who is denied this opportunity as a result of prior arrests or convictions, after one year, may request reconsideration under guidelines established by the ~~State~~ Board of ~~Education~~ Teacher Certification.

(C) A graduate of a teacher education program applying for initial teacher certification must have completed the FBI fingerprint process within eighteen months of formally applying for initial teacher certification or the fingerprint process must be repeated.”

SECTION 5. Section 59‑25‑130 of the 1976 Code is amended to read:

“Section 59‑25‑130. A full record of all teachers’ certificates shall be kept ~~in~~ by the ~~State Department of Education~~ Board of Teacher Certification showing the name, age, sex, ~~color~~ race, and date of certificate of each person and ~~such~~ other information as may be desired.”

SECTION 6. Section 59‑25‑140 of the 1976 Code is amended to read:

“Section 59‑25‑140. The Board of ~~examiners~~ Teacher Certification for teachers may charge a fee of fifty cents for every duplicate certificate. The proceeds from ~~such~~ these fees ~~shall~~ must be deposited with the State Treasurer to be used by the board ~~of examiners~~ to cover the expense and labor of issuing duplicate certificates promptly and to pay the ~~traveling~~ travel expenses of the ~~director~~ Chairman of the Board of ~~examiners~~ Teacher Certification while in the discharge of his official duties. ~~All~~ Disbursements of ~~such~~ these fees ~~shall~~ must be made only on vouchers approved by the ~~State Superintendent of Education~~ board. An itemized statement of ~~such~~ expenditures ~~shall~~ must be kept and published in the annual report of the State Superintendent of Education.”

SECTION 7. Section 59‑25‑150 of the 1976 Code is amended to read:

“Section 59‑25‑150. The ~~State~~ Board of ~~Education~~ Teacher Certification may, for just cause, either revoke or suspend the certificate of ~~any~~ a person.”

SECTION 8. Section 59‑25‑160 of the 1976 Code is amended to read:

“Section 59‑25‑160. ‘Just cause’ may consist of any one or more of the following:

(1) incompetence;

(2) wilful neglect of duty;

(3) wilful violation of the rules and regulations of the ~~State~~ Board of ~~Education~~ Teacher Certification;

(4) unprofessional conduct;

(5) drunkenness;

(6) cruelty;

(7) crime against the law of this State or the United States;

(8) immorality;

(9) ~~Any~~ conduct involving moral turpitude;

(10) dishonesty;

(11) evident unfitness for position for which employed; or

(12) sale or possession of narcotics.”

SECTION 9. Section 59‑25‑170 of the 1976 Code is amended to read:

“Section 59‑25‑170. ~~No~~ A person’s certificate may not be ~~either~~ revoked or suspended unless written notice specifying the cause for either the revocation or suspension has been given to the person by the ~~State~~ Board of ~~Education~~ Teacher Certification and a hearing has been afforded ~~such~~ to the person.”

SECTION 10. Section 59‑25‑180 of the 1976 Code is amended to read:

“Section 59‑25‑180. ~~Whenever~~ When the ~~State~~ Board of ~~Education either~~ Teacher Certification revokes or suspends a certificate of ~~any~~ a person it shall immediately notify the chairman of the district board of trustees that employs ~~such~~ the person of the revocation or suspension.”

SECTION 11. Section 59‑25‑190 of the 1976 Code is amended to read:

“Section 59‑25‑190. The revocation or suspension of the certificate of ~~any~~ a person ~~shall terminate~~ terminates the employment of ~~such~~ the person until ~~such time as~~ a decision is reached concerning the charge against ~~such~~ the person; however, ~~such~~ the person ~~shall~~ must be paid until the final disposition of the case by the ~~State~~ Board of ~~Education~~ Teacher Certification.”

SECTION 12. Section 59‑25‑200 of the 1976 Code is amended to read:

“Section 59‑25‑200. Within fifteen days after receipt of notice of revocation or suspension, ~~such~~ a person may serve upon the Chairman of the ~~State~~ Board of ~~Education or the State Superintendent of Education~~ Teacher Certification a written request for ~~either~~ a public or private hearing before the board. The hearing ~~shall~~ must be held by the board not less than ten days nor more than twenty days after the request is served, and a notice of the time and place of the hearing ~~shall~~ must be given the person not less than four days prior to the date of the hearing. At the hearing, which shall be as summary and as simple as reasonably may be, the parties may appear in person and by counsel, if desired, and may present any testimony, under oath, or other evidence as may be pertinent. Within fifteen days following the hearing, the board shall determine whether there existed just cause for the notice of revocation or suspension and shall render its written order accordingly either affirming, withdrawing, or modifying the notice of revocation or suspension.”

SECTION 13. Section 59‑25‑210 of the 1976 Code is amended to read:

“Section 59‑25‑210. The ~~State~~ Board of ~~Education~~ Teacher Certification, for the purposes of this article, ~~shall have~~ has the power to subpoena witnesses, to administer oaths, and to examine witnesses and ~~such~~ parts of ~~any~~ books and records relating to the issue or issues involved.”

SECTION 14. Section 59‑25‑240 of the 1976 Code is amended to read:

“Section 59‑25‑240. The county sheriffs and their respective deputies shall serve ~~all~~ subpoenas of the ~~State~~ Board of ~~Education~~ Teacher Certification and shall receive the same fees ~~as are now~~ provided by law for like service. ~~Each~~ A witness who appears in obedience to ~~such~~ a subpoena shall receive for attendance the fees and mileage of witnesses in civil cases in the courts of the county in which the hearing is held.”

SECTION 15. Section 59‑25‑250 of the 1976 Code is amended to read:

“Section 59‑25‑250. (A) Upon application by the ~~State~~ Board of ~~Education~~ Teacher Certification, the court of common pleas shall enforce by proper proceedings the attendance and testimony of witnesses and the production of books, papers, and records. The unexcused failure or refusal to attend and give testimony or produce books, papers, and records ~~as may have been~~ required in ~~any~~ a subpoena issued by the State Board of Education is a misdemeanor. A person who engages in this conduct, upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

(B) The ~~State~~ Board of ~~Education~~ Teacher Certification may issue to the sheriff of the county in which a hearing is held a warrant requiring him to produce at the hearing a witness who has ignored or failed to comply with ~~any~~ a subpoena issued by the ~~State~~ Board of ~~Education~~ Teacher Certification and properly served upon the witness. The warrant authorizes the sheriff to arrest and produce at the hearing the witness, and it is his duty to do so. The failure of a witness to appear in response to a subpoena may be excused on the same grounds as provided by law for the attendance of witnesses in the courts of this State.”

SECTION 16. Section 59‑25‑260 of the 1976 Code, as last amended by Act 387 of 2006, is further amended to read:

“Section 59‑25‑260. The findings of fact by the ~~State~~ Board of ~~Education~~ Teacher Certification are final and conclusive. A person aggrieved by the order of the ~~State~~ Board of ~~Education~~ Teacher Certification, within thirty days, may appeal to the Administrative Law Court as provided in Sections 1‑23‑380(B) and 1‑23‑600(D), to review errors of law only, by filing with the Administrative Law Court and the ~~State~~ Board of ~~Education~~ Teacher Certification notice of appeal. The ~~State~~ Board of ~~Education~~ Teacher Certification shall file a certified copy of the record with the Administrative Law Court in accordance with its rules of procedure. An appeal from the order of the Administrative Law Court must be taken in the manner provided by the South Carolina Appellate Court Rules.”

SECTION 17. Section 59‑25‑270 of the 1976 Code is amended to read:

“Section 59‑25‑270. If either the ~~State~~ Board of ~~Education~~ Teacher Certification, the court of common pleas, the court of appeals, or the Supreme Court of South Carolina reverses the order of revocation or suspension, the person whose certificate had been either revoked or suspended by the ~~state~~ board ~~shall~~ must be fully reinstated and shall receive all salary lost as a result of ~~such~~ the revocation or suspension of his certificate; provided, however, that ~~where~~ when the ~~State~~ board ~~of Education~~, within the time prescribed by law, appeals from an order of the court of common pleas reversing an order of revocation or suspension rendered by the ~~State~~ board ~~of Education~~, the person whose certificate had either been revoked or suspended by the ~~state~~ board ~~shall~~ may not be entitled to be reinstated and to receive ~~all~~ salary lost as a result of his certificate’s revocation or suspension by the ~~state~~ board unless and until the Supreme Court or court of appeals affirms the order of the court of common pleas.”

SECTION 18. Section 59‑25‑280 of the 1976 Code, as added by Act 307 of 2004, is amended to read:

“Section 59‑25‑280. (A) The ~~State~~ Board of ~~Education~~ Teacher Certification permanently shall revoke, refuse to issue, or renew a certificate without a hearing, if the holder of or applicant for the certificate pleads guilty, pleads nolo contendere, or is found guilty of the following crimes, whether or not a sentence is imposed and regardless of where the matter was tried:

(1) a violent crime as defined in Section 16‑1‑60;

(2) certain offenses related to obscenity, material harmful to minors, child exploitation, and child prostitution, including Sections 16‑15‑305, 16‑15‑335, 16‑15‑345, 16‑15‑355, 16‑15‑365, 16‑15‑385, 16‑15‑387, 16‑15‑395, 16‑15‑405, 16‑15‑410, 16‑15‑415, and 16‑15‑425; or

(3) a criminal offense similar in nature to the crimes listed in items (1) and (2) committed in other jurisdictions or pursuant to federal law.

(B) A school district may not employ an educator in any capacity whose South Carolina certificate is revoked pursuant to subsection (A).”

SECTION 19. Section 59‑25‑310 of the 1976 Code, as added by Act 75 of 2007, is amended to read:

“Section 59‑25‑310. In addition to individuals certified for employment as school teachers pursuant to Article 3 of this chapter, a school district may hire individuals who have received a passport certificate issued by the American Board for the Certification of Teacher Excellence (ABCTE) and who meet the requirements of this article in the content areas of biology, chemistry, English, mathematics, physics, or science. Additional areas of certification may be approved by the ~~State~~ Board of ~~Education~~ Teacher Certification upon review of the longitudinal information required in Section 59‑25‑350.”

SECTION 20. Section 59‑25‑330 of the 1976 Code, as added by Act 75 of 2007, is amended to read:

“Section 59‑25‑330. A person who has received a passport certificate issued by the ABCTE, who has a minimum of a bachelor’s degree from a regionally accredited college or university or an institution with a teacher education program that has been approved by the ~~State~~ Board of ~~Education~~ Teacher Certification for certification purposes, and who has met the requirements of Section 59‑25‑320 is considered to have met the requirements for certification and must be issued an appropriate alternative route certificate as determined by the ~~State~~ board ~~of Education~~. The alternative route certificate must be valid for one year and may be renewed annually for two additional years upon the successful completion of teaching and of the hiring district’s induction program.”

SECTION 21. Upon the effective date of this act, the duties, powers, and responsibilities of the State Board of Education not inconsistent with the duties, powers, and responsibilities conferred upon the Board of Teacher Certification pursuant to Chapter 70, Title 40 are devolved upon the Board of Teacher Certification.

SECTION 22. Upon the effective date of this act, any regulations promulgated by the State Board of Education that concern teacher certification must be deemed to have been promulgated by the Board of Teacher Certification under the administration of the Department of Labor, Licensing and Regulation.

SECTION 23. This act takes effect upon approval by the Governor.

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