

By: Senator(s) Tollison

To: Education

SENATE BILL NO. 2161  
(As Passed the Senate)

1 AN ACT RELATING TO THE MISSISSIPPI CHARTER SCHOOLS ACT OF  
2 2013; TO AMEND SECTION 37-28-7, MISSISSIPPI CODE OF 1972, TO  
3 REVISE THE DESIGNATION OF SCHOOL DISTRICTS WHICH MAY DISAPPROVE  
4 THE LOCATION OF A CHARTER SCHOOL; TO AMEND SECTION 37-28-23,  
5 MISSISSIPPI CODE OF 1972, TO REVISE THE RESIDENCY REQUIREMENT FOR  
6 APPLICANTS TO ATTEND A CHARTER SCHOOL AND TO REQUIRE CHARTER  
7 SCHOOLS TO GIVE ENROLLMENT PREFERENCE TO UNDERSERVED CHILDREN; TO  
8 AMEND SECTION 37-28-29, MISSISSIPPI CODE OF 1972, TO REQUIRE  
9 CHARTER SCHOOLS TO OFFER COURSES MEETING STATE REQUIREMENTS FOR  
10 HIGH SCHOOL GRADUATION; TO AMEND SECTION 37-28-47, MISSISSIPPI  
11 CODE OF 1972, TO PROVIDE THAT EMPLOYEES IN CHARTER SCHOOLS ARE  
12 MEMBERS OF THE PUBLIC EMPLOYEES RETIREMENT SYSTEM AND TO REQUIRE  
13 TEACHERS AT CHARTER SCHOOLS TO BE FULLY CERTIFIED WITHIN THREE  
14 YEARS OF EMPLOYMENT; TO AMEND SECTION 37-28-55, MISSISSIPPI CODE  
15 OF 1972, RELATING TO THE PAYMENT OF FUNDS TO MISSISSIPPI CHARTER  
16 SCHOOLS TO PROVIDE THAT STATE FUND PAYMENTS ARE BASED ON ACCURATE  
17 ENROLLMENT PROJECTIONS AND TO CLARIFY THE CALCULATION AND  
18 DISTRIBUTION OF THE LOCAL AD VALOREM TAX PORTION OF THE CHARTER  
19 SCHOOL PER PUPIL FUNDING; TO AMEND SECTION 37-28-57, MISSISSIPPI  
20 CODE OF 1972, TO REVISE THE AUDIT DATE FOR CHARTER SCHOOLS; TO  
21 AMEND SECTION 37-28-61, MISSISSIPPI CODE OF 1972, TO REQUIRE THE  
22 LOCAL SCHOOL DISTRICT TO LEASE A CONVERSION CHARTER SCHOOL  
23 FACILITY AT OR BELOW FAIR MARKET VALUE; TO AMEND SECTION 37-47-3,  
24 MISSISSIPPI CODE OF 1972, TO INCLUDE CHARTER SCHOOLS IN THE  
25 AUTHORITY FOR PARTICIPATION IN THE STATE PUBLIC SCHOOL BUILDING  
26 FUND PROGRAM; TO PROHIBIT PUBLIC SCHOOL DISTRICTS FROM RETALIATING  
27 AGAINST AN EMPLOYEE BECAUSE THE EMPLOYEE IS INVOLVED IN CREATING A  
28 CHARTER SCHOOL; TO AMEND SECTION 25-11-103, MISSISSIPPI CODE OF  
29 1972, TO INCLUDE PUBLIC CHARTER SCHOOLS IN THE DEFINITION OF  
30 POLITICAL SUBDIVISION FOR PURPOSES OF THE PUBLIC EMPLOYEES'  
31 RETIREMENT SYSTEM; TO REPEAL SECTION 37-28-63, MISSISSIPPI CODE OF  
32 1972, WHICH IS THE AUTOMATIC REPEALER ON THE MISSISSIPPI CHARTER  
33 SCHOOLS ACT OF 2013; AND FOR RELATED PURPOSES.



34 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

35 **SECTION 1.** Section 37-28-7, Mississippi Code of 1972, is  
36 amended as follows:

37 37-28-7. (1) There is created the Mississippi Charter  
38 School Authorizer Board as a state agency with exclusive  
39 chartering jurisdiction in the State of Mississippi. Unless  
40 otherwise authorized by law, no other governmental agency or  
41 entity may assume any charter authorizing function or duty in any  
42 form.

43 (2) (a) The mission of the Mississippi Charter School  
44 Authorizer Board is to authorize high-quality charter schools,  
45 particularly schools designed to expand opportunities for  
46 underserved students, consistent with the purposes of this  
47 chapter. Subject to the restrictions and conditions prescribed in  
48 this subsection, the Mississippi Charter School Authorizer Board  
49 may authorize charter schools within the geographical boundaries  
50 of any school district.

51 (b) The Mississippi Charter School Authorizer Board may  
52 approve a maximum of fifteen (15) qualified charter applications  
53 during a fiscal year.

54 (c) In any school district designated as an "A \* \* \*"   
55 or "B" \* \* \* school district by the State Board of Education under  
56 the accreditation rating system at the time of application, the  
57 Mississippi Charter School Authorizer Board may authorize charter  
58 schools only if a majority of the members of the local school



59 board votes at a public meeting to endorse the application or to  
60 initiate the application on its own initiative.

61 (3) The Mississippi Charter School Authorizer Board shall  
62 consist of seven (7) members, to be appointed as follows:

63 (a) Three (3) members appointed by the Governor, with  
64 one (1) member being from each of the Mississippi Supreme Court  
65 Districts.

66 (b) Three (3) members appointed by the Lieutenant  
67 Governor, with one (1) member being from each of the Mississippi  
68 Supreme Court Districts.

69 (c) One (1) member appointed by the State  
70 Superintendent of Public Education.

71 All appointments must be made with the advice and consent of  
72 the Senate. In making the appointments, the appointing authority  
73 shall ensure diversity among members of the Mississippi Charter  
74 School Authorizer Board.

75 (4) Members appointed to the Mississippi Charter School  
76 Authorizer Board collectively must possess strong experience and  
77 expertise in public and nonprofit governance, management and  
78 finance, public school leadership, assessment, curriculum and  
79 instruction, and public education law. Each member of the  
80 Mississippi Charter School Authorizer Board must have demonstrated  
81 an understanding of and commitment to charter schooling as a  
82 strategy for strengthening public education.



83           (5) To establish staggered terms of office, the initial term  
84 of office for the three (3) Mississippi Charter School Authorizer  
85 Board members appointed by the Governor shall be four (4) years  
86 and thereafter shall be three (3) years; the initial term of  
87 office for the three (3) members appointed by the Lieutenant  
88 Governor shall be three (3) years and thereafter shall be three  
89 (3) years; and the initial term of office for the member appointed  
90 by the State Superintendent of Public Education shall be two (2)  
91 years and thereafter shall be three (3) years. No member may  
92 serve more than two (2) consecutive terms. The initial  
93 appointments must be made before September 1, 2013.

94           (6) The Mississippi Charter School Authorizer Board shall  
95 meet as soon as practical after September 1, 2013, upon the call  
96 of the Governor, and shall organize for business by selecting a  
97 chairman and adopting bylaws. Subsequent meetings shall be called  
98 by the chairman.

99           (7) An individual member of the Mississippi Charter School  
100 Authorizer Board may be removed by the board if the member's  
101 personal incapacity renders the member incapable or unfit to  
102 discharge the duties of the office or if the member is absent from  
103 a number of meetings of the board, as determined and specified by  
104 the board in its bylaws. Whenever a vacancy on the Mississippi  
105 Charter School Authorizer Board exists, the original appointing  
106 authority shall appoint a member for the remaining portion of the  
107 term.



108 (8) No member of the Mississippi Charter School Authorizer  
109 Board or employee, agent or representative of the board may serve  
110 simultaneously as an employee, trustee, agent, representative,  
111 vendor or contractor of a charter school authorized by the board.

112 (9) The Mississippi Charter School Authorizer Board shall  
113 appoint an individual to serve as the Executive Director of the  
114 Mississippi Charter School Authorizer Board. The executive  
115 director shall possess the qualifications established by the board  
116 which are based on national best practices, and shall possess an  
117 understanding of state and federal education law. The executive  
118 director, who shall serve at the will and pleasure of the board,  
119 shall devote his full time to the proper administration of the  
120 board and the duties assigned to him by the board and shall be  
121 paid a salary established by the board, subject to the approval of  
122 the State Personnel Board. Subject to the availability of  
123 funding, the executive director may employ such administrative  
124 staff as may be necessary to assist the director and board in  
125 carrying out the duties and directives of the Mississippi Charter  
126 School Authorizer Board.

127 (10) The Mississippi Charter School Authorizer Board shall  
128 be located, for administrative purposes, within the offices of the  
129 State Institutions of Higher Learning, which shall provide meeting  
130 space and clerical support for the board.

131 **SECTION 2.** Section 37-28-23, Mississippi Code of 1972, is  
132 amended as follows:



133           37-28-23. (1) A charter school must be open to any student  
134 residing in the \* \* \* State of Mississippi.

135           (2) A school district may not require any student enrolled  
136 in the school district to attend a charter school.

137           (3) Except as otherwise provided under subsection (8)(d) of  
138 this section, a charter school may not limit admission based on  
139 ethnicity, national origin, religion, gender, income level,  
140 disabling condition, proficiency in the English language, or  
141 academic or athletic ability.

142           (4) A charter school may limit admission to students within  
143 a given age group or grade level, including pre-kindergarten  
144 students, and may be organized around a special emphasis, theme or  
145 concept as stated in the school's application.

146           (5) The underserved student composition of a charter  
147 school's enrollment collectively must reflect that of students of  
148 all ages attending the school district in which the charter school  
149 is located, to be defined for the purposes of this chapter as  
150 being at least eighty percent (80%) of that population. If the  
151 underserved student composition of an applicant's or charter  
152 school's enrollment is less than eighty percent (80%) of the  
153 enrollment of students of all ages in the school district in which  
154 the charter school is located, despite the school's best efforts,  
155 the authorizer must consider the applicant's or charter school's  
156 recruitment efforts and the underserved student composition of the  
157 applicant pool in determining whether the applicant or charter



158 school is operating in a nondiscriminatory manner. A finding by  
159 the authorizer that a charter school is operating in a  
160 discriminatory manner justifies the revocation of a charter.

161 (6) A charter school must enroll all students who wish to  
162 attend the school unless the number of students exceeds the  
163 capacity of a program, class, grade level or building.

164 (7) If capacity is insufficient to enroll all students who  
165 wish to attend the school based on initial application, the  
166 charter school must select students through a lottery.

167 (8) (a) Any noncharter public school or part of a  
168 noncharter public school converting to a charter school shall  
169 adopt and maintain a policy giving an enrollment preference to  
170 students who reside within the former attendance area of that  
171 public school. If the charter school has excess capacity after  
172 enrolling students residing within the former attendance area of  
173 the school, students outside of the former attendance area of the  
174 school, but within the geographical boundaries of the school  
175 district in which the charter school is located, are eligible for  
176 enrollment. If the number of students applying for admission  
177 exceeds the capacity of a program, class, grade level or building  
178 of the charter school, the charter school must admit students on  
179 the basis of a lottery.

180 (b) A charter school must give an enrollment preference  
181 to students enrolled in the charter school during the preceding  
182 school year and to siblings of students already enrolled in the



183 charter school. An enrollment preference for returning students  
184 excludes those students from entering into a lottery.

185 (c) A charter school may give an enrollment preference  
186 to children of the charter school's applicant, governing board  
187 members and full-time employees, so long as those children  
188 constitute no more than ten percent (10%) of the charter school's  
189 total student population.

190 (d) A charter school may give an enrollment preference  
191 to underserved children as defined in Section 37-28-5 to ensure  
192 the charter school meets its required underserved student  
193 composition.

194 ( \* \* \*e) This section does not preclude the formation  
195 of a charter school whose mission is focused on serving students  
196 with disabilities, students of the same gender, students who pose  
197 such severe disciplinary problems that they warrant a specific  
198 educational program, or students who are at risk of academic  
199 failure. If capacity is insufficient to enroll all students who  
200 wish to attend the school, the charter school must select students  
201 through a lottery.

202 **SECTION 3.** Section 37-28-29, Mississippi Code of 1972, is  
203 amended as follows:

204 37-28-29. (1) The performance provisions within a charter  
205 contract must be based on a performance framework that clearly  
206 sets forth the academic and operational performance indicators,  
207 measures and metrics that will guide the authorizer's evaluations





208 of the charter school. The performance framework must include  
209 indicators, measures and metrics, at a minimum, for the following:

210 (a) Student academic proficiency;

211 (b) Student academic growth;

212 (c) Achievement gaps in both proficiency and growth  
213 between major student subgroups;

214 (d) Attendance;

215 (e) Recurrent enrollment from year to year;

216 (f) In-school and out-of-school suspension rates and  
217 expulsion rates;

218 (g) For charter high schools, postsecondary readiness,  
219 including the percentage of graduates submitting applications to  
220 postsecondary institutions, high school completion, postsecondary  
221 admission and postsecondary enrollment or employment;

222 (h) Financial performance and sustainability; and

223 (i) Board performance and stewardship, including  
224 compliance with all applicable laws, regulations and terms of the  
225 charter contract.

226 (2) The charter contract of each charter school serving  
227 Grades 9-12 must include a provision ensuring that graduation  
228 requirements meet or exceed those set by the Mississippi  
229 Department of Education for a regular high school diploma.  
230 Nothing in this section shall preclude competency-based  
231 satisfaction of graduation requirements.



232 ( \* \* \*3) Annual performance targets must be set by each  
233 charter school in conjunction with the authorizer and must be  
234 designed to help each school meet applicable federal, state and  
235 authorizer expectations.

236 ( \* \* \*4) The performance framework must allow the inclusion  
237 of additional rigorous, valid and reliable indicators proposed by  
238 a charter school to augment external evaluations of its  
239 performance; however, the authorizer must approve the quality and  
240 rigor of any indicators proposed by a charter school, which  
241 indicators must be consistent with the purposes of this chapter.

242 ( \* \* \*5) The performance framework must require the  
243 disaggregation of all student performance data by major student  
244 subgroups (gender, race, poverty status, special education status,  
245 English learner status and gifted status).

246 ( \* \* \*6) The authorizer shall collect, analyze and report  
247 all data from state assessments in accordance with the performance  
248 framework for each charter school. Multiple schools overseen by a  
249 single governing board must report their performance as separate,  
250 individual schools, and each school must be held independently  
251 accountable for its performance.

252 ( \* \* \*7) Information needed by the authorizer from the  
253 charter school governing board for the authorizer's reports must  
254 be required and included as a material part of the charter  
255 contract.



256           **SECTION 4.** Section 37-28-47, Mississippi Code of 1972, is  
257 amended as follows:

258           37-28-47. (1) (a) Charter schools must comply with  
259 applicable federal laws, rules and regulations regarding the  
260 qualification of teachers and other instructional staff. No more  
261 than twenty-five percent (25%) of teachers in a charter school may  
262 be exempt from state teacher licensure requirements \* \* \*.

263 Administrators of charter schools are exempt from state  
264 administrator licensure requirements. However, teachers and  
265 administrators must have a bachelor's degree as a minimum  
266 requirement, and teachers must have demonstrated subject-matter  
267 competency. Within three (3) years of \* \* \* a teacher's  
268 employment by a charter school, the teacher must have, at a  
269 minimum, alternative licensure approved by the Commission on  
270 Teacher and Administrator Education, Certification and Licensure  
271 and Development.

272           (b) A charter school may not staff positions for  
273 teachers, administrators, ancillary support personnel or other  
274 employees by utilizing or otherwise relying on nonimmigrant  
275 foreign worker visa programs. However, a charter school may  
276 submit a request to the authorizer for an exception allowing the  
277 employment of a nonimmigrant foreign worker before the worker is  
278 employed. The authorizer may grant permission for the employment  
279 of the nonimmigrant foreign worker only if the charter school  
280 makes a satisfactory showing of efforts to recruit lawful



281 permanent residents of the United States to fill the position and  
282 a lack of qualified applicants to fill the position.

283 (2) Employees in charter schools must have the same general  
284 rights and privileges as other public school employees, except  
285 such employees are not:

286 (a) Covered under the Education Employment Procedures  
287 Law (Section 37-9-103); and

288 (b) Subject to the state salary requirements prescribed  
289 in Section 37-19-7 \* \* \*.

290 \* \* \*

291 (3) \* \* \* For the purpose of eligibility for participation  
292 in the Public Employees' Retirement System, a public charter  
293 school is considered to be a political subdivision of the state.  
294 Employees in public charter schools are eligible for participation  
295 in other benefits programs if the public charter school governing  
296 board chooses to participate.

297 **SECTION 5.** Section 37-28-55, Mississippi Code of 1972, is  
298 amended as follows:

299 37-28-55. (1) (a) The State Department of Education shall  
300 make payments to charter schools for each student in average daily  
301 attendance at the charter school equal to the state share of the  
302 adequate education program payments for each student in average  
303 daily attendance at the school district in which the charter  
304 school is located. In calculating the local contribution for  
305 purposes of determining the state share of the adequate education



306 program payments, the department shall deduct the pro rata local  
307 contribution of the school district in which the student resides,  
308 to be determined as provided in Section 37-151-7(2) (a).

309 (b) Payments made pursuant to this subsection by the  
310 State Department of Education must be made at the same time and in  
311 the same manner as adequate education program payments are made to  
312 school districts under Sections 37-151-101 and 37-151-103.

313 Amounts payable to a charter school must be determined by the  
314 State Department of Education. Amounts payable to a charter  
315 school over its charter term must be based on the enrollment  
316 projections set forth over the term of the charter contract. Such  
317 projections must be reconciled with the average daily  
318 attendance \* \* \* consistent with Section 37-151-7 (a), using  
319 months two (2) and three (3) ADA for the year immediately  
320 preceding the year for which adequate education program funds are  
321 being appropriated and any necessary adjustments must be made to  
322 payments during the school's following year of operation.

323 (2) For students attending a charter school located in the  
324 school district in which the student resides, the school district  
325 *in which a charter school is located shall pay directly to the*  
326 *charter school an amount for each student enrolled in the charter*  
327 *school equal to the ad valorem tax receipts and in-lieu payments*  
328 *received per pupil for the support of the local school district in*  
329 *which the student resides. The pro rata ad valorem receipts and*  
330 *in-lieu receipts to be transferred to the charter school shall*



331 *include all levies for the support of the local school district*  
332 *under Sections 37-57-1 (local contribution to the adequate*  
333 *education program) and 37-57-105 (school district operational*  
334 *levy) and may not include any taxes levied for the retirement of*  
335 *the local school district's bonded indebtedness or short-term*  
336 *notes or any taxes levied for the support of vocational-technical*  
337 *education programs. The amount of funds payable to the charter*  
338 *school by the school district must be based on the previous year's*  
339 *enrollment data and ad valorem receipts and in-lieu receipts of*  
340 *the local school district in which the student resides. The pro*  
341 *rata amount must be calculated by dividing the local school*  
342 *district's months one (1) through nine (9) average daily*  
343 *membership into the total amount of ad valorem receipts and*  
344 *in-lieu receipts, as reported to the State Department of Education*  
345 *by the local school district. The local school district shall pay*  
346 *an amount equal to this pro rata amount multiplied by the number*  
347 *of students enrolled in the charter school, based on the charter*  
348 *school's end of first month enrollment for the current school*  
349 *year. The amount must be paid by the school district to the*  
350 *charter school before January 16 of the current fiscal year. If*  
351 *the local school district does not pay the required amount to the*  
352 *charter school before January 16, the State Department of*  
353 *Education shall reduce the local school district's January*  
354 *transfer of Mississippi Adequate Education Program funds by the*  
355 *amount owed to the charter school and shall redirect that amount*



356 *to the charter school. Any such payments made under this*  
357 *subsection (2) by the State Department of Education to a charter*  
358 *school must be made at the same time and in the same manner as*  
359 *adequate education program payments are made to school districts*  
360 *under Sections 37-151-101 and 37-151-103.*

361 (3) For students attending a charter school located in a  
362 school district in which the student does not reside, the State  
363 Department of Education shall pay to the charter school in which  
364 the student is enrolled an amount as follows: the pro rata ad  
365 valorem receipts and in-lieu payments per pupil for the support of  
366 the local school district in which the student resides under  
367 Sections 37-57-1 (local contribution to the adequate education  
368 program) and 37-57-105 (school district operational levy),  
369 however, not including any taxes levied for the retirement of the  
370 local school district's bonded indebtedness or short-term notes or  
371 any taxes levied for the support of vocational-technical education  
372 programs. The amount of funds payable to the charter school by  
373 the school district must be based on the previous year's  
374 enrollment data and ad valorem receipts and in-lieu receipts of  
375 the local school district in which the student resides. The pro  
376 rata amount must be calculated by dividing the local school  
377 district's months one (1) through nine (9) average daily  
378 membership into the total amount of ad valorem receipts and  
379 in-lieu receipts, as reported to the State Department of Education  
380 by the transferor local school district. The payable amount shall



381 be equal to this pro rata amount multiplied by the number of  
382 students enrolled in the charter school, based on the charter  
383 school's end of first month enrollment for the current school  
384 year. The State Department of Education shall reduce the school  
385 district's January transfer of Mississippi Adequate Education  
386 Program funds by the amount owed to the charter school and shall  
387 redirect that amount to the charter school. Any such payments  
388 made under this subsection (3) by the State Department of  
389 Education to a charter school must be made at the same time and in  
390 the same manner as adequate education program payments are made to  
391 school districts under Sections 37-151-101 and 37-151-103.

392       ( \* \* \*4) (a) The State Department of Education shall  
393 direct the proportionate share of monies generated under federal  
394 and state categorical aid programs, including special education,  
395 vocational, gifted and alternative school programs, to charter  
396 schools serving students eligible for such aid. The department  
397 shall ensure that charter schools with rapidly expanding  
398 enrollments are treated equitably in the calculation and  
399 disbursement of all federal and state categorical aid program  
400 dollars. Each charter school that serves students who may be  
401 eligible to receive services provided through such programs shall  
402 comply with all reporting requirements to receive the aid.

403       (b) A charter school shall pay to a local school  
404 district any federal or state aid attributable to a student with a  
405 disability attending the charter school in proportion to the level





406 of services for that student which the local school district  
407 provides directly or indirectly.

408 (c) Subject to the approval of the authorizer, a  
409 charter school and a local school district may negotiate and enter  
410 into a contract for the provision of and payment for special  
411 education services, including, but not necessarily limited to, a  
412 reasonable reserve not to exceed five percent (5%) of the local  
413 school district's total budget for providing special education  
414 services. The reserve may be used by the local school district  
415 only to offset excess costs of providing services to students with  
416 disabilities enrolled in the charter school.

417 ( \* \* \*5) (a) The State Department of Education shall  
418 disburse state transportation funding to a charter school on the  
419 same basis and in the same manner as it is paid to school  
420 districts under the adequate education program.

421 (b) A charter school may enter into a contract with a  
422 school district or private provider to provide transportation to  
423 the school's students.

424 **SECTION 6.** Section 37-28-57, Mississippi Code of 1972, is  
425 amended as follows:

426 37-28-57. (1) A charter school must adhere to generally  
427 accepted accounting principles.

428 (2) A charter school shall have its financial records  
429 audited annually, at the end of each fiscal year, either by the  
430 State Auditor or by a certified public accountant approved by the



431 State Auditor. However, a certified public accountant may not be  
432 selected to perform the annual audit of a charter school if that  
433 accountant previously has audited the charter school for more than  
434 three (3) consecutive years. Certified public accountants must be  
435 selected in a manner determined by the State Auditor. The charter  
436 school shall file a copy of each audit report and accompanying  
437 management letter with the authorizer before \* \* \* October 1.

438 **SECTION 7.** Section 37-28-61, Mississippi Code of 1972, is  
439 amended as follows:

440 37-28-61. (1) A charter school has a right of first refusal  
441 to purchase or lease at or below fair market value a closed public  
442 school facility or property or unused portions of a public school  
443 facility or property in the school district in which the charter  
444 school is located if the school district decides to sell or lease  
445 the public school facility or property. If a conversion charter  
446 school application is successful, the local school district owning  
447 the conversion charter school's facility must offer to lease or  
448 sell the building to the conversion charter school at or below  
449 fair market value.

450 (2) A charter school may negotiate and contract at or below  
451 fair market value with a school district, state institution of  
452 higher learning, public community or junior college, or any other  
453 public or for-profit or nonprofit private entity for the use of a  
454 facility for a school building.



455 (3) Public entities, including, but not limited to,  
456 libraries, community service organizations, museums, performing  
457 arts venues, theatres, cinemas, churches, community and junior  
458 colleges, colleges and universities, may provide space to charter  
459 schools within their facilities under their preexisting zoning and  
460 land use designations.

461 **SECTION 8.** Section 37-47-3, Mississippi Code of 1972, is  
462 amended as follows:

463 37-47-3. The term "school district" as used in this chapter  
464 shall be defined as including all public school districts and  
465 public charter schools in this state and also all agricultural  
466 high schools not located on the campus of a junior college.

467 **SECTION 9.** A school district, school district employee or  
468 any other person who has control over personnel actions may not  
469 take unlawful reprisal against an employee of the school district  
470 because the employee is directly or indirectly involved in an  
471 effort to create or encourage participation in a public charter  
472 school. As used in this section, the term "unlawful reprisal"  
473 means an action which is adverse to the employee and results in  
474 one or more of the following for the employee:

- 475 (a) Disciplinary or correction action;
- 476 (b) Detail, transfer or reassignment;
- 477 (c) Suspension, demotion or dismissal;
- 478 (d) An unfavorable performance evaluation;
- 479 (e) A reduction in pay, benefits or awards;



480 (f) Elimination of the employee's position without a  
481 reduction in force by reason of lack of monies or work; or

482 (g) Other significant changes in duties or  
483 responsibilities which are inconsistent with the employee's salary  
484 or employment classification.

485 **SECTION 10.** Section 25-11-103, Mississippi Code of 1972, is  
486 amended as follows:

487 25-11-103. (1) The following words and phrases as used in  
488 Articles 1 and 3, unless a different meaning is plainly required  
489 by the context, have the following meanings:

490 (a) "Accumulated contributions" means the sum of all  
491 the amounts deducted from the compensation of a member and  
492 credited to his or her individual account in the annuity savings  
493 account, together with regular interest as provided in Section  
494 25-11-123.

495 (b) "Actuarial cost" means the amount of funds  
496 presently required to provide future benefits as determined by the  
497 board based on applicable tables and formulas provided by the  
498 actuary.

499 (c) "Actuarial equivalent" means a benefit of equal  
500 value to the accumulated contributions, annuity or benefit, as the  
501 case may be, when computed upon the basis of such mortality tables  
502 as adopted by the board of trustees, and regular interest.



503           (d) "Actuarial tables" means such tables of mortality  
504 and rates of interest as adopted by the board in accordance with  
505 the recommendation of the actuary.

506           (e) "Agency" means any governmental body employing  
507 persons in the state service.

508           (f) "Average compensation" means the average of the  
509 four (4) highest years of earned compensation reported for an  
510 employee in a fiscal or calendar year period, or combination  
511 thereof that do not overlap, or the last forty-eight (48)  
512 consecutive months of earned compensation reported for an  
513 employee. The four (4) years need not be successive or joined  
514 years of service. In computing the average compensation for  
515 retirement, disability or survivor benefits, any amount lawfully  
516 paid in a lump sum for personal leave or major medical leave shall  
517 be included in the calculation to the extent that the amount does  
518 not exceed an amount that is equal to thirty (30) days of earned  
519 compensation and to the extent that it does not cause the  
520 employee's earned compensation to exceed the maximum reportable  
521 amount specified in paragraph (k) of this section; however, this  
522 thirty-day limitation shall not prevent the inclusion in the  
523 calculation of leave earned under federal regulations before July  
524 1, 1976, and frozen as of that date as referred to in Section  
525 25-3-99. In computing the average compensation, no amounts shall  
526 be used that are in excess of the amount on which contributions  
527 were required and paid, and no nontaxable amounts paid by the



528 employer for health or life insurance premiums for the employee  
529 shall be used. If any member who is or has been granted any  
530 increase in annual salary or compensation of more than eight  
531 percent (8%) retires within twenty-four (24) months from the date  
532 that the increase becomes effective, then the board shall exclude  
533 that part of the increase in salary or compensation that exceeds  
534 eight percent (8%) in calculating that member's average  
535 compensation for retirement purposes. The board may enforce this  
536 provision by rule or regulation. However, increases in  
537 compensation in excess of eight percent (8%) per year granted  
538 within twenty-four (24) months of the date of retirement may be  
539 included in the calculation of average compensation if  
540 satisfactory proof is presented to the board showing that the  
541 increase in compensation was the result of an actual change in the  
542 position held or services rendered, or that the compensation  
543 increase was authorized by the State Personnel Board or was  
544 increased as a result of statutory enactment, and the employer  
545 furnishes an affidavit stating that the increase granted within  
546 the last twenty-four (24) months was not contingent on a promise  
547 or agreement of the employee to retire. Nothing in Section  
548 25-3-31 shall affect the calculation of the average compensation  
549 of any member for the purposes of this article. The average  
550 compensation of any member who retires before July 1, 1992, shall  
551 not exceed the annual salary of the Governor.



552 (g) "Beneficiary" means any person entitled to receive  
553 a retirement allowance, an annuity or other benefit as provided by  
554 Articles 1 and 3. The term "beneficiary" may also include an  
555 organization, estate, trust or entity; however, a beneficiary  
556 designated or entitled to receive monthly payments under an  
557 optional settlement based on life contingency or under a statutory  
558 monthly benefit may only be a natural person. In the event of the  
559 death before retirement of any member who became a member of the  
560 system before July 1, 2007, and whose spouse and/or children are  
561 not entitled to a retirement allowance on the basis that the  
562 member has less than four (4) years of service credit, or who  
563 became a member of the system on or after July 1, 2007, and whose  
564 spouse and/or children are not entitled to a retirement allowance  
565 on the basis that the member has less than eight (8) years of  
566 service credit, and/or has not been married for a minimum of one  
567 (1) year or the spouse has waived his or her entitlement to a  
568 retirement allowance under Section 25-11-114, the lawful spouse of  
569 a member at the time of the death of the member shall be the  
570 beneficiary of the member unless the member has designated another  
571 beneficiary after the date of marriage in writing, and filed that  
572 writing in the office of the executive director of the board of  
573 trustees. No designation or change of beneficiary shall be made  
574 in any other manner.



575           (h) "Board" means the board of trustees provided in  
576 Section 25-11-15 to administer the retirement system created under  
577 this article.

578           (i) "Creditable service" means "prior service,"  
579 "retroactive service" and all lawfully credited unused leave not  
580 exceeding the accrual rates and limitations provided in Section  
581 25-3-91 et seq., as of the date of withdrawal from service plus  
582 "membership service" and other service for which credit is  
583 allowable as provided in Section 25-11-109. Except to limit  
584 creditable service reported to the system for the purpose of  
585 computing an employee's retirement allowance or annuity or  
586 benefits provided in this article, nothing in this paragraph shall  
587 limit or otherwise restrict the power of the governing authority  
588 of a municipality or other political subdivision of the state to  
589 adopt such vacation and sick leave policies as it deems necessary.

590           (j) "Child" means either a natural child of the member,  
591 a child that has been made a child of the member by applicable  
592 court action before the death of the member, or a child under the  
593 permanent care of the member at the time of the latter's death,  
594 which permanent care status shall be determined by evidence  
595 satisfactory to the board.

596           (k) "Earned compensation" means the full amount earned  
597 during a fiscal year by an employee not to exceed the employee  
598 compensation limit set pursuant to Section 401(a)(17) of the  
599 Internal Revenue Code for the calendar year in which the fiscal





600 year begins and proportionately for less than one (1) year of  
601 service. Except as otherwise provided in this paragraph, the  
602 value of maintenance furnished to an employee shall not be  
603 included in earned compensation. Earned compensation shall not  
604 include any amounts paid by the employer for health or life  
605 insurance premiums for an employee. Earned compensation shall be  
606 limited to the regular periodic compensation paid, exclusive of  
607 litigation fees, bond fees, performance-based incentive payments,  
608 and other similar extraordinary nonrecurring payments. In  
609 addition, any member in a covered position, as defined by Public  
610 Employees' Retirement System laws and regulations, who is also  
611 employed by another covered agency or political subdivision shall  
612 have the earnings of that additional employment reported to the  
613 Public Employees' Retirement System regardless of whether the  
614 additional employment is sufficient in itself to be a covered  
615 position. In addition, computation of earned compensation shall  
616 be governed by the following:

617           (i) In the case of constables, the net earnings  
618 from their office after deduction of expenses shall apply, except  
619 that in no case shall earned compensation be less than the total  
620 direct payments made by the state or governmental subdivisions to  
621 the official.

622           (ii) In the case of chancery or circuit clerks,  
623 the net earnings from their office after deduction of expenses  
624 shall apply as expressed in Section 25-11-123(f) (4).



625 (iii) In the case of members of the State  
626 Legislature, all remuneration or amounts paid, except mileage  
627 allowance, shall apply.

628 (iv) The amount by which an eligible employee's  
629 salary is reduced under a salary reduction agreement authorized  
630 under Section 25-17-5 shall be included as earned compensation  
631 under this paragraph, provided this inclusion does not conflict  
632 with federal law, including federal regulations and federal  
633 administrative interpretations under the federal law, pertaining  
634 to the Federal Insurance Contributions Act or to Internal Revenue  
635 Code Section 125 cafeteria plans.

636 (v) Compensation in addition to an employee's base  
637 salary that is paid to the employee under the vacation and sick  
638 leave policies of a municipality or other political subdivision of  
639 the state that employs him or her that exceeds the maximums  
640 authorized by Section 25-3-91 et seq. shall be excluded from the  
641 calculation of earned compensation under this article.

642 (vi) The maximum salary applicable for retirement  
643 purposes before July 1, 1992, shall be the salary of the Governor.

644 (vii) Nothing in Section 25-3-31 shall affect the  
645 determination of the earned compensation of any member for the  
646 purposes of this article.

647 (viii) The value of maintenance furnished to an  
648 employee before July 1, 2013, for which the proper amount of  
649 employer and employee contributions have been paid, shall be



650 included in earned compensation. From and after July 1, 2013, the  
651 value of maintenance furnished to an employee shall be reported as  
652 earned compensation only if the proper amount of employer and  
653 employee contributions have been paid on the maintenance and the  
654 employee was receiving maintenance and having maintenance reported  
655 to the system as of June 30, 2013. The value of maintenance when  
656 not paid in money shall be fixed by the employing state agency,  
657 and, in case of doubt, by the board of trustees as defined in  
658 Section 25-11-15.

659 (ix) Except as otherwise provided in this  
660 paragraph, the value of any in-kind benefits provided by the  
661 employer shall not be included in earned compensation. As used in  
662 this subparagraph, "in-kind benefits" shall include, but not be  
663 limited to, group life insurance premiums, health or dental  
664 insurance premiums, nonpaid major medical and personal leave,  
665 employer contributions for social security and retirement, tuition  
666 reimbursement or educational funding, day care or transportation  
667 benefits.

668 (l) "Employee" means any person legally occupying a  
669 position in the state service, and shall include the employees of  
670 the retirement system created under this article.

671 (m) "Employer" means the State of Mississippi or any of  
672 its departments, agencies or subdivisions from which any employee  
673 receives his or her compensation.



674           (n) "Executive director" means the secretary to the  
675 board of trustees, as provided in Section 25-11-15(9), and the  
676 administrator of the Public Employees' Retirement System and all  
677 systems under the management of the board of trustees. Wherever  
678 the term "Executive Secretary of the Public Employees' Retirement  
679 System" or "executive secretary" appears in this article or in any  
680 other provision of law, it shall be construed to mean the  
681 Executive Director of the Public Employees' Retirement System.

682           (o) "Fiscal year" means the period beginning on July 1  
683 of any year and ending on June 30 of the next succeeding year.

684           (p) "Medical board" means the board of physicians or  
685 any governmental or nongovernmental disability determination  
686 service designated by the board of trustees that is qualified to  
687 make disability determinations as provided for in Section  
688 25-11-119.

689           (q) "Member" means any person included in the  
690 membership of the system as provided in Section 25-11-105. For  
691 purposes of Sections 25-11-103, 25-11-105, 25-11-109, 25-11-111,  
692 25-11-113, 25-11-114, 25-11-115 and 25-11-117, if a member of the  
693 system withdrew from state service and received a refund of the  
694 amount of the accumulated contributions to the credit of the  
695 member in the annuity savings account before July 1, 2007, and the  
696 person reenters state service and becomes a member of the system  
697 again on or after July 1, 2007, and repays all or part of the  
698 amount received as a refund and interest in order to receive



699 creditable service for service rendered before July 1, 2007, the  
700 member shall be considered to have become a member of the system  
701 on or after July 1, 2007, subject to the eight-year membership  
702 service requirement, as applicable in those sections. For  
703 purposes of Sections 25-11-103, 25-11-111, 25-11-114 and  
704 25-11-115, if a member of the system withdrew from state service  
705 and received a refund of the amount of the accumulated  
706 contributions to the credit of the member in the annuity savings  
707 account before July 1, 2011, and the person reenters state service  
708 and becomes a member of the system again on or after July 1, 2011,  
709 and repays all or part of the amount received as a refund and  
710 interest in order to receive creditable service for service  
711 rendered before July 1, 2011, the member shall be considered to  
712 have become a member of the system on or after July 1, 2011.

713 (r) "Membership service" means service as an employee  
714 in a covered position rendered while a contributing member of the  
715 retirement system.

716 (s) "Position" means any office or any employment in  
717 the state service, or two (2) or more of them, the duties of which  
718 call for services to be rendered by one (1) person, including  
719 positions jointly employed by federal and state agencies  
720 administering federal and state funds. The employer shall  
721 determine upon initial employment and during the course of  
722 employment of an employee who does not meet the criteria for  
723 coverage in the Public Employees' Retirement System based on the



724 position held, whether the employee is or becomes eligible for  
725 coverage in the Public Employees' Retirement System based upon any  
726 other employment in a covered agency or political subdivision. If  
727 or when the employee meets the eligibility criteria for coverage  
728 in the other position, then the employer must withhold  
729 contributions and report wages from the noncovered position in  
730 accordance with the provisions for reporting of earned  
731 compensation. Failure to deduct and report those contributions  
732 shall not relieve the employee or employer of liability thereof.  
733 The board shall adopt such rules and regulations as necessary to  
734 implement and enforce this provision.

735 (t) "Prior service" means:

736 (i) For persons who became members of the system  
737 before July 1, 2007, service rendered before February 1, 1953, for  
738 which credit is allowable under Sections 25-11-105 and 25-11-109,  
739 and which shall allow prior service for any person who is now or  
740 becomes a member of the Public Employees' Retirement System and  
741 who does contribute to the system for a minimum period of four (4)  
742 years.

743 (ii) For persons who became members of the system  
744 on or after July 1, 2007, service rendered before February 1,  
745 1953, for which credit is allowable under Sections 25-11-105 and  
746 25-11-109, and which shall allow prior service for any person who  
747 is now or becomes a member of the Public Employees' Retirement



748 System and who does contribute to the system for a minimum period  
749 of eight (8) years.

750 (u) "Regular interest" means interest compounded  
751 annually at such a rate as determined by the board in accordance  
752 with Section 25-11-121.

753 (v) "Retirement allowance" means an annuity for life as  
754 provided in this article, payable each year in twelve (12) equal  
755 monthly installments beginning as of the date fixed by the board.  
756 The retirement allowance shall be calculated in accordance with  
757 Section 25-11-111. However, any spouse who received a spouse  
758 retirement benefit in accordance with Section 25-11-111(d) before  
759 March 31, 1971, and those benefits were terminated because of  
760 eligibility for a social security benefit, may again receive his  
761 or her spouse retirement benefit from and after making application  
762 with the board of trustees to reinstate the spouse retirement  
763 benefit.

764 (w) "Retroactive service" means service rendered after  
765 February 1, 1953, for which credit is allowable under Section  
766 25-11-105(b) and Section 25-11-105(k).

767 (x) "System" means the Public Employees' Retirement  
768 System of Mississippi established and described in Section  
769 25-11-101.

770 (y) "State" means the State of Mississippi or any  
771 political subdivision thereof or instrumentality of the state.



772           (z) "State service" means all offices and positions of  
773 trust or employment in the employ of the state, or any political  
774 subdivision or instrumentality of the state, that elect to  
775 participate as provided by Section 25-11-105(f), including the  
776 position of elected or fee officials of the counties and their  
777 deputies and employees performing public services or any  
778 department, independent agency, board or commission thereof, and  
779 also includes all offices and positions of trust or employment in  
780 the employ of joint state and federal agencies administering state  
781 and federal funds and service rendered by employees of the public  
782 schools. Effective July 1, 1973, all nonprofessional public  
783 school employees, such as bus drivers, janitors, maids,  
784 maintenance workers and cafeteria employees, shall have the option  
785 to become members in accordance with Section 25-11-105(b), and  
786 shall be eligible to receive credit for services before July 1,  
787 1973, provided that the contributions and interest are paid by the  
788 employee in accordance with that section; in addition, the county  
789 or municipal separate school district may pay the employer  
790 contribution and pro rata share of interest of the retroactive  
791 service from available funds. From and after July 1, 1998,  
792 retroactive service credit shall be purchased at the actuarial  
793 cost in accordance with Section 25-11-105(b).

794           (aa) "Withdrawal from service" or "termination from  
795 service" means complete severance of employment in the state  
796 service of any member by resignation, dismissal or discharge.





797 (bb) The masculine pronoun, wherever used, includes the  
798 feminine pronoun.

799 (2) For purposes of this article, the term "political  
800 subdivision" shall have the meaning ascribed to such term in  
801 Section 25-11-5 and shall also include public charter schools.

802 **SECTION 11.** Section 37-28-63, Mississippi Code of 1972,  
803 which is the automatic repealer on the Mississippi Charter Schools  
804 Act of 2013, is here repealed.

805 **SECTION 12.** This act shall take effect and be in force from  
806 and after July 1, 2016.

