

By: Representative Ladner

To: Education

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 31

1 AN ACT TO AMEND SECTION 37-28-7, MISSISSIPPI CODE OF 1972, TO
2 RECONSTITUTE THE MISSISSIPPI CHARTER SCHOOL AUTHORIZER BOARD FOR
3 THE PURPOSE OF BETTER STAGGERING THE TERMS OF EACH APPOINTING
4 AUTHORITY'S APPOINTEES; TO AMEND SECTION 37-28-11, MISSISSIPPI
5 CODE OF 1972, TO REQUIRE THE LEGISLATURE TO ANNUALLY APPROPRIATE
6 FUNDS AND ALLOCATE POSITIONS TO THE CHARTER SCHOOL AUTHORIZER
7 BOARD; TO AMEND SECTION 37-28-55, MISSISSIPPI CODE OF 1972, TO
8 REQUIRE THE CHARTER SCHOOL AUTHORIZER BOARD AND STATE DEPARTMENT
9 OF EDUCATION TO DEVELOP A FORMULA THAT REQUIRES LOCAL AD VALOREM
10 CONTRIBUTIONS TO CHARTER SCHOOLS TO BE RECONCILED EACH YEAR IN THE
11 SAME MANNER AS ADEQUATE EDUCATION PROGRAM PAYMENTS; TO DIRECT THAT
12 THE FORMULA MAKE THE PRO RATA DISTRIBUTION OF LOCAL AD VALOREM
13 FUNDS EQUITABLE BETWEEN SCHOOL DISTRICTS AND CHARTER SCHOOLS; TO
14 AMEND SECTION 37-28-37, MISSISSIPPI CODE OF 1972, TO REVISE THE
15 FREQUENCY BY WHICH PEER IS REQUIRED TO PRODUCE A REPORT ASSESSING
16 THE SUFFICIENCY OF FUNDING FOR CHARTER SCHOOLS, FROM ANNUALLY TO
17 ONLY IN EVEN NUMBERED YEARS; AND FOR RELATED PURPOSES.

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

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

21 37-28-7. (1) There is created the Mississippi Charter
22 School Authorizer Board as a state agency with exclusive
23 chartering jurisdiction in the State of Mississippi. Unless
24 otherwise authorized by law, no other governmental agency or



25 entity may assume any charter authorizing function or duty in any
26 form.

27 (2) (a) The mission of the Mississippi Charter School
28 Authorizer Board is to authorize high-quality charter schools,
29 particularly schools designed to expand opportunities for
30 underserved students, consistent with the purposes of this
31 chapter. Subject to the restrictions and conditions prescribed in
32 this subsection, the Mississippi Charter School Authorizer Board
33 may authorize charter schools within the geographical boundaries
34 of any school district.

35 (b) The Mississippi Charter School Authorizer Board may
36 approve a maximum of fifteen (15) qualified charter applications
37 during a fiscal year.

38 (c) In any school district designated as an "A," "B" or
39 "C" school district by the State Board of Education under the
40 accreditation rating system at the time of application, the
41 Mississippi Charter School Authorizer Board may authorize charter
42 schools only if a majority of the members of the local school
43 board votes at a public meeting to endorse the application or to
44 initiate the application on its own initiative.

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

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



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

53 (c) One (1) member appointed by the State
54 Superintendent of Public Education.

55 All appointments must be made with the advice and consent of
56 the Senate. In making the appointments, the appointing authority
57 shall ensure diversity among members of the Mississippi Charter
58 School Authorizer Board.

59 (4) Members appointed to the Mississippi Charter School
60 Authorizer Board collectively must possess strong experience and
61 expertise in public and nonprofit governance, management and
62 finance, public school leadership, assessment, curriculum and
63 instruction, and public education law. Each member of the
64 Mississippi Charter School Authorizer Board must have demonstrated
65 an understanding of and commitment to charter schooling as a
66 strategy for strengthening public education.

67 (5) To establish staggered terms of office, the Mississippi
68 Charter School Authorizer Board will be reconstituted and all
69 members serving on the effective date of House Bill No. 31, 2022
70 Regular Session, reappointed before July 1, 2022, as follows:

71 (a) The initial term of office for the three (3)
72 Mississippi Charter School Authorizer Board members * * *
73 reappointed by the Governor shall be * * * one (1) year for the
74 appointee from the First Supreme Court District, two (2) years for



75 the appointee from the Second Supreme Court District, and three
76 (3) years for the appointee from the Third Supreme Court District.
77 Thereafter, the term of office shall be three (3) years * * *.

78 (b) The initial term of office for the three (3)
79 members * * * reappointed by the Lieutenant Governor shall be
80 three (3) years * * * for the appointee from the First Supreme
81 Court District, one (1) year for the appointee from the Second
82 Supreme Court District, and two (2) years for the appointee from
83 the Third Supreme Court District. Thereafter, the term of office
84 shall be three (3) years * * *.

85 (c) The * * * term of office for the member * * *
86 reappointed by the State Superintendent of Public Education shall
87 be * * * three (3) years.

88 No member of the board may serve more than two (2)
89 consecutive terms. The * * * reappointments to the board must be
90 made before * * * July 1, 2022.

91 (d) Any member appointed or reappointed to the board under
92 this subsection (5) during any period in which the Legislature is
93 not convened to facilitate confirmation of such member by the
94 Senate in accordance with subsection (3) of this section, shall be
95 administered an oath of office to serve in an interim capacity as
96 a board member upon the expiration of the term of his or her
97 predecessor until such time he or she is confirmed by the Senate
98 in order to allow the board to carry out its functions.



99 (6) The Mississippi Charter School Authorizer Board shall
100 meet as soon as practical after September 1, 2013, upon the call
101 of the Governor, and shall organize for business by selecting a
102 chairman and adopting bylaws. Subsequent meetings shall be called
103 by the chairman.

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

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

117 (9) The Mississippi Charter School Authorizer Board shall
118 appoint an individual to serve as the Executive Director of the
119 Mississippi Charter School Authorizer Board. The executive
120 director shall possess the qualifications established by the board
121 which are based on national best practices, and shall possess an
122 understanding of state and federal education law. The executive
123 director, who shall serve at the will and pleasure of the board,



124 shall devote his full time to the proper administration of the
125 board and the duties assigned to him by the board and shall be
126 paid a salary established by the board, subject to the approval of
127 the State Personnel Board. Subject to the availability of
128 funding, the executive director may employ such administrative
129 staff as may be necessary to assist the director and board in
130 carrying out the duties and directives of the Mississippi Charter
131 School Authorizer Board.

132 (10) The Mississippi Charter School Authorizer Board is
133 authorized to obtain suitable office space for administrative
134 purposes. In acquiring a facility or office space, the authorizer
135 board shall adhere to all policies and procedures required by the
136 Department of Finance and Administration and the Public
137 Procurement Review Board.

138 **SECTION 2.** Section 37-28-11, Mississippi Code of 1972, is
139 amended as follows:

140 37-28-11. (1) To cover the costs of overseeing charter
141 schools in accordance with this chapter, the authorizer shall
142 receive up to three percent (3%) of annual per-pupil allocations
143 received by a charter school from state and local funds for each
144 charter school it authorizes.

145 (2) The authorizer may receive appropriate gifts, grants and
146 donations of any kind from any public or private entity to carry
147 out the purposes of this chapter, subject to all lawful terms and
148 conditions under which the gifts, grants or donations are given.



149 (3) The authorizer may expend its resources, seek grant
150 funds and establish partnerships to support its charter school
151 authorizing activities.

152 **SECTION 3.** Section 37-28-55, Mississippi Code of 1972, is
153 amended as follows:

154 37-28-55. (1) (a) The State Department of Education shall
155 make payments to charter schools for each student in average daily
156 attendance at the charter school equal to the state share of the
157 adequate education program payments for each student in average
158 daily attendance at the school district in which the charter
159 school is located. In calculating the local contribution for
160 purposes of determining the state share of the adequate education
161 program payments, the department shall deduct the pro rata local
162 contribution of the school district in which the student resides,
163 to be determined as provided in Section 37-151-7(2) (a).

164 (b) Payments made pursuant to this subsection by the
165 State Department of Education must be made at the same time and in
166 the same manner as adequate education program payments are made to
167 school districts under Sections 37-151-101 and 37-151-103.
168 Amounts payable to a charter school must be determined by the
169 State Department of Education. Amounts payable to a charter
170 school over its charter term must be based on the enrollment
171 projections set forth over the term of the charter contract. Such
172 projections must be reconciled with the average daily attendance
173 using months two (2) and three (3) ADA for the current year for



174 which adequate education program funds are being appropriated and
175 any necessary adjustments must be made to payments during the
176 school's following year of operation.

177 (2) For students attending a charter school located in the
178 school district in which the student resides, the school district
179 in which a charter school is located shall pay directly to the
180 charter school an amount for each student enrolled in the charter
181 school equal to the ad valorem tax receipts and in-lieu payments
182 received per pupil for the support of the local school district in
183 which the student resides. The pro rata ad valorem receipts and
184 in-lieu receipts to be transferred to the charter school shall
185 include all levies for the support of the local school district
186 under Sections 37-57-1 (local contribution to the adequate
187 education program) and 37-57-105 (school district operational
188 levy) and may not include any taxes levied for the retirement of
189 the local school district's bonded indebtedness or short-term
190 notes or any taxes levied for the support of vocational-technical
191 education programs. * * * The pro rata amount must be calculated
192 using a formula developed by an external expert identified by the
193 Charter School Authorizer Board. The provider selected must
194 specialize in equity and adequacy considerations and work in
195 consultation with the Charter School Authorizer Board and by the
196 State Department of Education. The formula must ensure that the
197 pro rata distribution of local ad valorem funds is equitable
198 between the school district and the charter school. Notice of any



199 change to the formula must be submitted to the Education
200 Committees of the House and Senate and the Joint Legislative
201 Committee on Performance Evaluation and Expenditure Review (PEER).

202 * * * The amount must be paid by the school district to the
203 charter school before January 16 of the current fiscal year. If
204 the local school district does not pay the required amount to the
205 charter school before January 16, the State Department of
206 Education shall reduce the local school district's January
207 transfer of Mississippi Adequate Education Program funds by the
208 amount owed to the charter school and shall redirect that amount
209 to the charter school. Any such payments made under this
210 subsection (2) by the State Department of Education to a charter
211 school must be made at the same time and in the same manner as
212 adequate education program payments are made to school districts
213 under Sections 37-151-101 and 37-151-103. The local ad valorem
214 payments must be reconciled and adjusted in the same manner that
215 adequate education program payments are adjusted under subsection
216 (1)(b) of this section.

217 (3) For students attending a charter school located in a
218 school district in which the student does not reside, the State
219 Department of Education shall pay to the charter school in which
220 the student is enrolled an amount as follows: the pro rata ad
221 valorem receipts and in-lieu payments per pupil for the support of
222 the local school district in which the student resides under
223 Sections 37-57-1 (local contribution to the adequate education



224 program) and 37-57-105 (school district operational levy),
225 however, not including any taxes levied for the retirement of the
226 local school district's bonded indebtedness or short-term notes or
227 any taxes levied for the support of vocational-technical education
228 programs. * * * The pro rata amount must be calculated * * * in
229 accordance with a formula developed by an external expert
230 identified by the Charter School authorizer Board. The provider
231 selected must specialize in equity and adequacy considerations and
232 work in consultation with the Charter School Authorizer Board and
233 by the State Department of Education. The payable amount shall be
234 equal to this pro rata amount multiplied by the number of students
235 enrolled in the charter school, based on the charter school's end
236 of first month enrollment for the current school year. The State
237 Department of Education shall reduce the school district's January
238 transfer of Mississippi Adequate Education Program funds by the
239 amount owed to the charter school and shall redirect that amount
240 to the charter school. Any such payments made under this
241 subsection (3) by the State Department of Education to a charter
242 school must be made at the same time and in the same manner as
243 adequate education program payments are made to school districts
244 under Sections 37-151-101 and 37-151-103. The local ad valorem
245 payments must be reconciled and adjusted in the same manner that
246 adequate education program payments are adjusted under subsection
247 (1)(b) of this section.



248 (4) (a) The State Department of Education shall direct the
249 proportionate share of monies generated under federal and state
250 categorical aid programs, including special education, vocational,
251 gifted and alternative school programs, to charter schools serving
252 students eligible for such aid. The department shall ensure that
253 charter schools with rapidly expanding enrollments are treated
254 equitably in the calculation and disbursement of all federal and
255 state categorical aid program dollars. Each charter school that
256 serves students who may be eligible to receive services provided
257 through such programs shall comply with all reporting requirements
258 to receive the aid.

259 (b) A charter school shall pay to a local school
260 district any federal or state aid attributable to a student with a
261 disability attending the charter school in proportion to the level
262 of services for that student which the local school district
263 provides directly or indirectly.

264 (c) Subject to the approval of the authorizer, a
265 charter school and a local school district may negotiate and enter
266 into a contract for the provision of and payment for special
267 education services, including, but not necessarily limited to, a
268 reasonable reserve not to exceed five percent (5%) of the local
269 school district's total budget for providing special education
270 services. The reserve may be used by the local school district
271 only to offset excess costs of providing services to students with
272 disabilities enrolled in the charter school.



273 (5) (a) The State Department of Education shall disburse
274 state transportation funding to a charter school on the same basis
275 and in the same manner as it is paid to school districts under the
276 adequate education program.

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

280 **SECTION 4.** Section 37-28-37, Mississippi Code of 1972, is
281 amended as follows:

282 37-28-37. (1) Before October 1 of each year, beginning in
283 the year that the state has had at least one (1) charter school
284 operating for a full school year, the Mississippi Charter School
285 Authorizer Board shall issue to the Governor, Legislature, State
286 Board of Education and the public an annual report on the state's
287 charter schools for the preceding school year. The report must
288 include a comparison of the performance of charter school students
289 with the performance of academically, ethnically and economically
290 comparable groups of students in the school district in which a
291 charter school is located. In addition, the report must include
292 the authorizer's assessment of the successes, challenges and areas
293 for improvement in meeting the purposes of this chapter. The
294 report also must include an assessment on whether the number and
295 size of operating charter schools are sufficient to meet demand,
296 as calculated according to admissions data and the number of
297 students denied enrollment based on lottery results. The report



298 due from the authorizer under this section must be coordinated
299 with reports due from charter school governing boards, as near as
300 possible, to decrease or eliminate duplication.

301 (2) The Joint Legislative Committee on Performance
302 Evaluation and Expenditure Review (PEER) shall prepare * * * a
303 report in years ending in even numbers assessing the sufficiency
304 of funding for charter schools, the efficacy of the state formula
305 for authorizer funding, and any suggested changes in state law or
306 policy necessary to strengthen the state's charter schools.

307 **SECTION 5.** This act shall take effect and be in force from
308 and after its passage.

