

By: Representative Ladner

To: Education

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; AND
 14 FOR RELATED PURPOSES.

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

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

18 37-28-7. (1) There is created the Mississippi Charter
 19 School Authorizer Board as a state agency with exclusive
 20 chartering jurisdiction in the State of Mississippi. Unless
 21 otherwise authorized by law, no other governmental agency or
 22 entity may assume any charter authorizing function or duty in any
 23 form.



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

32 (b) The Mississippi Charter School Authorizer Board may
33 approve a maximum of fifteen (15) qualified charter applications
34 during a fiscal year.

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

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

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



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

50 (c) One (1) member appointed by the State
51 Superintendent of Public Education.

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

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

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

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



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

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

82 (c) The * * * term of office for the member * * *
83 reappointed by the State Superintendent of Public Education shall
84 be * * * three (3) years.

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

88 (6) The Mississippi Charter School Authorizer Board shall
89 meet as soon as practical after September 1, 2013, upon the call
90 of the Governor, and shall organize for business by selecting a
91 chairman and adopting bylaws. Subsequent meetings shall be called
92 by the chairman.

93 (7) An individual member of the Mississippi Charter School
94 Authorizer Board may be removed by the board if the member's
95 personal incapacity renders the member incapable or unfit to
96 discharge the duties of the office or if the member is absent from



97 a number of meetings of the board, as determined and specified by
98 the board in its bylaws. Whenever a vacancy on the Mississippi
99 Charter School Authorizer Board exists, the original appointing
100 authority shall appoint a member for the remaining portion of the
101 term.

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

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



121 (10) The Mississippi Charter School Authorizer Board is
122 authorized to obtain suitable office space for administrative
123 purposes. In acquiring a facility or office space, the authorizer
124 board shall adhere to all policies and procedures required by the
125 Department of Finance and Administration and the Public
126 Procurement Review Board.

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

129 37-28-11. (1) To cover the costs of overseeing charter
130 schools in accordance with this chapter, the authorizer shall
131 receive up to three percent (3%) of annual per-pupil allocations
132 received by a charter school from state and local funds for each
133 charter school it authorizes. The Legislature annually shall
134 appropriate funds and allocate positions to the Mississippi
135 Charter School Authorizer Board.

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

140 (3) The authorizer may expend its resources, seek grant
141 funds and establish partnerships to support its charter school
142 authorizing activities.

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



145 37-28-55. (1) (a) The State Department of Education shall
146 make payments to charter schools for each student in average daily
147 attendance at the charter school equal to the state share of the
148 adequate education program payments for each student in average
149 daily attendance at the school district in which the charter
150 school is located. In calculating the local contribution for
151 purposes of determining the state share of the adequate education
152 program payments, the department shall deduct the pro rata local
153 contribution of the school district in which the student resides,
154 to be determined as provided in Section 37-151-7(2) (a).

155 (b) Payments made pursuant to this subsection by the
156 State Department of Education must be made at the same time and in
157 the same manner as adequate education program payments are made to
158 school districts under Sections 37-151-101 and 37-151-103.
159 Amounts payable to a charter school must be determined by the
160 State Department of Education. Amounts payable to a charter
161 school over its charter term must be based on the enrollment
162 projections set forth over the term of the charter contract. Such
163 projections must be reconciled with the average daily attendance
164 using months two (2) and three (3) ADA for the current year for
165 which adequate education program funds are being appropriated and
166 any necessary adjustments must be made to payments during the
167 school's following year of operation.

168 (2) For students attending a charter school located in the
169 school district in which the student resides, the school district



170 in which a charter school is located shall pay directly to the
171 charter school an amount for each student enrolled in the charter
172 school equal to the ad valorem tax receipts and in-lieu payments
173 received per pupil for the support of the local school district in
174 which the student resides. The pro rata ad valorem receipts and
175 in-lieu receipts to be transferred to the charter school shall
176 include all levies for the support of the local school district
177 under Sections 37-57-1 (local contribution to the adequate
178 education program) and 37-57-105 (school district operational
179 levy) and may not include any taxes levied for the retirement of
180 the local school district's bonded indebtedness or short-term
181 notes or any taxes levied for the support of vocational-technical
182 education programs. * * * The pro rata amount must be calculated
183 using a formula developed by the Charter School Authorizer Board
184 and approved by the State Department of Education. The formula
185 must ensure that the pro rata distribution of local ad valorem
186 funds is equitable between the school district and the charter
187 school. Notice of any change to the formula must be submitted to
188 the Education Committees of the House and Senate and the Joint
189 Legislative Committee on Performance Evaluation and Expenditure
190 Review (PEER). * * * The amount must be paid by the school
191 district to the charter school before January 16 of the current
192 fiscal year. If the local school district does not pay the
193 required amount to the charter school before January 16, the State
194 Department of Education shall reduce the local school district's



195 January transfer of Mississippi Adequate Education Program funds
196 by the amount owed to the charter school and shall redirect that
197 amount to the charter school. Any such payments made under this
198 subsection (2) by the State Department of Education to a charter
199 school must be made at the same time and in the same manner as
200 adequate education program payments are made to school districts
201 under Sections 37-151-101 and 37-151-103. The local ad valorem
202 payments must be reconciled and adjusted in the same manner that
203 adequate education program payments are adjusted under subsection
204 (1)(b) of this section.

205 (3) For students attending a charter school located in a
206 school district in which the student does not reside, the State
207 Department of Education shall pay to the charter school in which
208 the student is enrolled an amount as follows: the pro rata ad
209 valorem receipts and in-lieu payments per pupil for the support of
210 the local school district in which the student resides under
211 Sections 37-57-1 (local contribution to the adequate education
212 program) and 37-57-105 (school district operational levy),
213 however, not including any taxes levied for the retirement of the
214 local school district's bonded indebtedness or short-term notes or
215 any taxes levied for the support of vocational-technical education
216 programs. * * * The pro rata amount must be calculated * * * in
217 accordance with a formula developed by the Charter School
218 Authorizer Board and approved by the State Department of
219 Education. The payable amount shall be equal to this pro rata



220 amount multiplied by the number of students enrolled in the
221 charter school, based on the charter school's end of first month
222 enrollment for the current school year. The State Department of
223 Education shall reduce the school district's January transfer of
224 Mississippi Adequate Education Program funds by the amount owed to
225 the charter school and shall redirect that amount to the charter
226 school. Any such payments made under this subsection (3) by the
227 State Department of Education to a charter school must be made at
228 the same time and in the same manner as adequate education program
229 payments are made to school districts under Sections 37-151-101
230 and 37-151-103. The local ad valorem payments must be reconciled
231 and adjusted in the same manner that adequate education program
232 payments are adjusted under subsection (1) (b) of this section.

233 (4) (a) The State Department of Education shall direct the
234 proportionate share of monies generated under federal and state
235 categorical aid programs, including special education, vocational,
236 gifted and alternative school programs, to charter schools serving
237 students eligible for such aid. The department shall ensure that
238 charter schools with rapidly expanding enrollments are treated
239 equitably in the calculation and disbursement of all federal and
240 state categorical aid program dollars. Each charter school that
241 serves students who may be eligible to receive services provided
242 through such programs shall comply with all reporting requirements
243 to receive the aid.



244 (b) A charter school shall pay to a local school
245 district any federal or state aid attributable to a student with a
246 disability attending the charter school in proportion to the level
247 of services for that student which the local school district
248 provides directly or indirectly.

249 (c) Subject to the approval of the authorizer, a
250 charter school and a local school district may negotiate and enter
251 into a contract for the provision of and payment for special
252 education services, including, but not necessarily limited to, a
253 reasonable reserve not to exceed five percent (5%) of the local
254 school district's total budget for providing special education
255 services. The reserve may be used by the local school district
256 only to offset excess costs of providing services to students with
257 disabilities enrolled in the charter school.

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

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

265 **SECTION 4.** This act shall take effect and be in force from
266 and after its passage.

