

By: Senator(s) Blackwell, Younger,
Chassaniol, Polk

To: Education;
Appropriations

SENATE BILL NO. 2892

1 AN ACT TO AMEND SECTION 37-28-7, MISSISSIPPI CODE OF 1972, TO
2 RECONSTITUTE THE CHARTER SCHOOL AUTHORIZER BOARD TO ESTABLISH
3 TERMS OF OFFICE FOR APPOINTEES; TO AMEND SECTION 37-28-11,
4 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE LEGISLATURE SHALL
5 ANNUALLY APPROPRIATE FUNDS AND ALLOCATE POSITIONS TO THE
6 MISSISSIPPI CHARTER SCHOOL AUTHORIZER BOARD; TO AMEND SECTION
7 37-28-55, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE AMOUNT OF
8 FUNDS PAYABLE TO CHARTER SCHOOLS SHALL BE CALCULATED BY USING A
9 FORMULA DEVELOPED BY THE CHARTER SCHOOL AUTHORIZER BOARD AND
10 APPROVED BY THE STATE DEPARTMENT OF EDUCATION; TO REQUIRE THAT THE
11 FORMULA ENSURE THAT THE PRO RATA DISTRIBUTION OF LOCAL AD VALOREM
12 FUNDS BE EQUITABLE BETWEEN THE SCHOOL DISTRICTS AND THE CHARTER
13 SCHOOLS; TO REQUIRE LOCAL AD VALOREM PAYMENTS BE RECONCILED LIKE
14 ADEQUATE EDUCATION PROGRAM PAYMENTS; AND 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.



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

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

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

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

(5) To establish staggered terms of office the board shall be reconstituted and reappointed by July 1, 2022, the initial term of office for the three (3) Mississippi Charter School Authorizer Board members appointed by the Governor shall be * * * one (1) year for the appointee from the First Supreme Court District, two (2) years for the appointee from the Second Supreme Court District, three (3) years for the appointee from the Third Supreme Court District, and thereafter shall be three (3) years; the



72 initial term of office for the three (3) members appointed by the
73 Lieutenant Governor shall be three (3) years for the appointee
74 from the First Supreme Court District, one (1) year for the
75 appointee from the Second Supreme Court District, two (2) years
76 for the appointee from the Third Supreme Court District, and
77 thereafter shall be three (3) years; and the * * * term of office
78 for the member appointed by the State Superintendent of Public
79 Education * * * shall be three (3) years. No member may serve
80 more than two (2) consecutive terms. The initial appointments
81 must be made before * * * July 1, 2022.

82 (6) The Mississippi Charter School Authorizer Board shall
83 meet as soon as practical after September 1, 2013, upon the call
84 of the Governor, and shall organize for business by selecting a
85 chairman and adopting bylaws. Subsequent meetings shall be called
86 by the chairman.

87 (7) An individual member of the Mississippi Charter School
88 Authorizer Board may be removed by the board if the member's
89 personal incapacity renders the member incapable or unfit to
90 discharge the duties of the office or if the member is absent from
91 a number of meetings of the board, as determined and specified by
92 the board in its bylaws. Whenever a vacancy on the Mississippi
93 Charter School Authorizer Board exists, the original appointing
94 authority shall appoint a member for the remaining portion of the
95 term.



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

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

115 (10) The Mississippi Charter School Authorizer Board is
116 authorized to obtain suitable office space for administrative
117 purposes. In acquiring a facility or office space, the authorizer
118 board shall adhere to all policies and procedures required by the
119 Department of Finance and Administration and the Public
120 Procurement Review Board.



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

123 37-28-11. (1) To cover the costs of overseeing charter
124 schools in accordance with this chapter, the authorizer shall
125 receive up to three percent (3%) of annual per-pupil allocations
126 received by a charter school from state and local funds for each
127 charter school it authorizes. The Legislature shall annually
128 appropriate funds and allocate positions to the Mississippi
129 Charter School Authorizer Board.

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

134 (3) The authorizer may expend its resources, seek grant
135 funds and establish partnerships to support its charter school
136 authorizing activities.

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

139 37-28-55. (1) (a) The State Department of Education shall
140 make payments to charter schools for each student in average daily
141 attendance at the charter school equal to the state share of the
142 adequate education program payments for each student in average
143 daily attendance at the school district in which the charter
144 school is located. In calculating the local contribution for
145 purposes of determining the state share of the adequate education



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

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

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



under Sections 37-57-1 (local contribution to the adequate education program) and 37-57-105 (school district operational levy) and may not include any taxes levied for the retirement of the local school district's bonded indebtedness or short-term notes or any taxes levied for the support of vocational-technical education programs. * * * The pro rata amount must be calculated by * * * using a formula developed by the Charter School Authorizer Board and approved by the State Department of Education. * * * The formula shall ensure that the pro rata distribution of local ad valorem funds is equitable between the school districts and the charter schools. Notice of any change in formula must be submitted to the Education Committees of the House and Senate and the Joint Legislative Committee on Performance Evaluation and Expenditure Review. The amount must be paid by the school district to the charter school before January 16 of the current fiscal year. If the local school district does not pay the required amount to the charter school before January 16, the State Department of Education shall reduce the local school district's January transfer of Mississippi Adequate Education Program funds by the amount owed to the charter school and shall redirect that amount to the charter school. Any such payments made under this subsection (2) by the State Department of Education to a charter school must be made at the same time and in the same manner as adequate education program payments are made to school districts under Sections 37-151-101 and 37-151-103. Such



196 local ad valorem payments must also be reconciled as are the
197 adequate education payments in subsection (1)(b) of this section.

198 (3) For students attending a charter school located in a
199 school district in which the student does not reside, the State
200 Department of Education shall pay to the charter school in which
201 the student is enrolled an amount as follows: the pro rata ad
202 valorem receipts and in-lieu payments per pupil for the support of
203 the local school district in which the student resides under
204 Sections 37-57-1 (local contribution to the adequate education
205 program) and 37-57-105 (school district operational levy),
206 however, not including any taxes levied for the retirement of the
207 local school district's bonded indebtedness or short-term notes or
208 any taxes levied for the support of vocational-technical education
209 programs. The amount of funds payable to the charter school by
210 the school district must be based on the previous year's
211 enrollment data and ad valorem receipts and in-lieu receipts of
212 the local school district in which the student resides. The pro
213 rata amount must be calculated * * * in accordance with a formula
214 constituted by the Charter School Authorizer Board and approved by
215 the State Department of Education * * *. The payable amount shall
216 be equal to this pro rata amount multiplied by the number of
217 students enrolled in the charter school, based on the charter
218 school's end of first month enrollment for the current school
219 year. The State Department of Education shall reduce the school
220 district's January transfer of Mississippi Adequate Education



221 Program funds by the amount owed to the charter school and shall
222 redirect that amount to the charter school. Any such payments
223 made under this subsection (3) by the State Department of
224 Education to a charter school must be made at the same time and in
225 the same manner as adequate education program payments are made to
226 school districts under Sections 37-151-101 and 37-151-103. Such
227 local ad valorem payments must also be reconciled as are adequate
228 education program payments as specified in subsection (1)(b) of
229 this section.

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

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



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

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

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

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

