

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

To: Education

SENATE BILL NO. 2409

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 THAT, WHEN CONCLUDED, MINIMIZE THE IMPACT ON THE BOARD'S
4 ABILITY TO OPERATE BY STAGGERING TERMS OF MEMBERS; TO AMEND
5 SECTION 37-28-11, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
6 CHARTER SCHOOL AUTHORIZER BOARD MAY RECEIVE UP TO THREE-PERCENT OF
7 ANNUAL PER PUPIL ALLOCATIONS RECEIVED BY A CHARTER SCHOOL FROM
8 STATE AND LOCAL FUNDS FOR EACH CHARTER SCHOOL IT AUTHORIZES; TO
9 AMEND SECTION 37-28-33, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
10 A CHARTER SCHOOL AUTHORIZER MAY GRANT RENEWAL OR LESSEN THE
11 RENEWAL TERM BASED ON THE PERFORMANCE FRAMEWORK SET FORTH IN THE
12 CHARTER CONTRACT; TO AMEND SECTION 37-28-55, MISSISSIPPI CODE OF
13 1972, TO MODIFY THE FUNDING FORMULA FOR CHARTER SCHOOLS; AND FOR
14 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 board shall
65 hereby be reconstituted and all members reappointed by July 1,
66 2024, the initial term of office for the three (3) Mississippi
67 Charter School Authorizer Board members appointed by the Governor
68 shall be * * * one (1) year for the appointee from the First
69 Supreme Court District, two (2) years for the appointee from the
70 Second Supreme Court District, three (3) years for the appointee
71 from the Third Supreme Court District, and thereafter shall be



72 three (3) years; the initial term of office for the three (3)
73 members appointed by the Lieutenant Governor shall be three (3)
74 years for the appointee from the First Supreme Court District, one
75 year (1) year for the appointee from the Second Supreme Court
76 District, two (2) years for the appointee from the Third Supreme
77 Court District, and thereafter shall be three (3) years; and
78 the * * * term of office for the member appointed by the State
79 Superintendent of Public Education shall be three (3) years. No
80 member may serve more than two (2) consecutive terms. The initial
81 appointments must be made before * * * July 1, 2024.

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.

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

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

135 **SECTION 3.** Section 37-28-33, Mississippi Code of 1972, is
136 amended as follows:

137 37-28-33. (1) A charter may be renewed for successive
138 five-year terms of duration. The authorizer may grant renewal
139 with specific conditions for necessary improvements to a charter
140 school and may lessen the renewal term based on * * * the
141 performance framework set forth in the charter contract.

142 (2) Before September 30, the authorizer shall issue a
143 charter school performance report and charter renewal application
144 guidance to any charter school whose charter will expire the
145 following year. The performance report must summarize the charter



146 school's performance record to date, based on the data required by
147 this chapter and the charter contract, and must provide notice of
148 any weaknesses or concerns perceived by the authorizer which may
149 jeopardize the charter school's position in seeking renewal if not
150 timely rectified. The charter school must respond and submit any
151 corrections or clarifications for the performance report within
152 ninety (90) days after receiving the report.

153 (3) The charter renewal application guidance must provide,
154 at a minimum, an opportunity for the charter school to:

155 (a) Present additional evidence, beyond the data
156 contained in the performance report, supporting its case for
157 charter renewal;

158 (b) Describe improvements undertaken or planned for the
159 school; and

160 (c) Detail the school's plans for the next charter
161 term.

162 (4) The charter renewal application guidance must include or
163 refer explicitly to the criteria that will guide the authorizer's
164 renewal decision, which must be based on the performance framework
165 set forth in the charter contract and consistent with this
166 chapter.

167 (5) Before February 1, the governing board of a charter
168 school seeking renewal shall submit a renewal application to the
169 authorizer pursuant to the charter renewal application guidance
170 issued by the authorizer. The authorizer shall adopt a resolution



171 ruling on the renewal application no later than ninety (90) days
172 after the filing of the renewal application.

173 (6) In making each charter renewal decision, the authorizer
174 must:

175 (a) Ground its decision in evidence of the school's
176 performance over the term of the charter contract in accordance
177 with the performance framework set forth in the charter contract;

178 (b) Ensure that data used in making the renewal
179 decision is available to the school and the public; and

180 (c) Provide a public report summarizing the evidence
181 that is the basis for the renewal decision.

182 (7) A charter contract must be revoked at any time or not
183 renewed if the authorizer determines that the charter school has
184 done any of the following or otherwise failed to comply with the
185 provisions of this chapter:

186 (a) Committed a material and substantial violation of
187 any of the terms, conditions, standards or procedures required
188 under this chapter or the charter contract;

189 (b) Failed to meet or make sufficient progress toward
190 the performance expectations set forth in the charter contract;

191 (c) Failed to meet generally accepted standards of
192 fiscal management; or

193 (d) Substantially violated any material provision of
194 law which is applicable to the charter school.



195 (8) The authorizer shall develop revocation and nonrenewal
196 processes that:

197 (a) Provide the governing board of a charter school
198 with a timely notification of the prospect of revocation or
199 nonrenewal and of the reasons for such possible closure;

200 (b) Allow the governing board a reasonable amount of
201 time in which to prepare a response;

202 (c) Provide the governing board with an opportunity to
203 submit documents and give testimony challenging the rationale for
204 closure and in support of the continuation of the school at an
205 orderly proceeding held for that purpose;

206 (d) Allow the governing board access to representation
207 by counsel and to call witnesses on the school's behalf;

208 (e) Permit the recording of such proceedings; and

209 (f) After a reasonable period for deliberation, require
210 a final determination to be made and conveyed in writing to the
211 governing board.

212 (9) Notwithstanding any provision to the contrary, the
213 authorizer may not renew the charter of any charter school that,
214 during the school's final operating year under the term of the
215 charter contract, is designated an "F" school under the school
216 accreditation rating system.

217 (10) If the authorizer revokes or does not renew a charter,
218 the authorizer must state clearly, in a resolution adopted by the
219 authorizer board, the reasons for the revocation or nonrenewal.



220 (11) Within ten (10) days after taking action to renew, not
221 renew or revoke a charter, the authorizer shall provide a report
222 to the charter school. The report must include a copy of the
223 authorizer board's resolution setting forth the action taken,
224 reasons for the board's decision and assurances as to compliance
225 with all of the requirements set forth in this chapter.

226 **SECTION 4.** Section 37-28-55, Mississippi Code of 1972, is
227 amended as follows:

228 37-28-55. (1) (a) The State Department of Education shall
229 make payments to charter schools for each student in average daily
230 attendance at the charter school equal to the state share of the
231 adequate education program payments for each student in average
232 daily attendance at the school district in which the charter
233 school is located. In calculating the local contribution for
234 purposes of determining the state share of the adequate education
235 program payments, the department shall deduct the pro rata local
236 contribution of the school district in which the student resides,
237 to be determined as provided in Section 37-151-7(2) (a).

238 (b) Payments made pursuant to this subsection by the
239 State Department of Education must be made at the same time and in
240 the same manner as adequate education program payments are made to
241 school districts under Sections 37-151-101 and 37-151-103.
242 Amounts payable to a charter school must be determined by the
243 State Department of Education. Amounts payable to a charter
244 school over its charter term must be based on the enrollment



245 projections set forth over the term of the charter contract. Such
246 projections must be reconciled with the average daily attendance
247 using months two (2) and three (3) ADA for the current year for
248 which adequate education program funds are being appropriated and
249 any necessary adjustments must be made to payments during the
250 school's following year of operation.

251 (2) For students attending a charter school located in the
252 school district in which the student resides, the school district
253 in which a charter school is located shall pay directly to the
254 charter school an amount for each student enrolled in the charter
255 school equal to the ad valorem tax receipts and in-lieu payments
256 received per pupil for the support of the local school district in
257 which the student resides. The pro rata ad valorem receipts and
258 in-lieu receipts to be transferred to the charter school shall
259 include all levies for the support of the local school district
260 under Sections 37-57-1 (local contribution to the adequate
261 education program) and 37-57-105 (school district operational
262 levy) and may not include any taxes levied for the retirement of
263 the local school district's bonded indebtedness or short-term
264 notes or any taxes levied for the support of vocational-technical
265 education programs. The amount of funds payable to the charter
266 school by the school district must be based on the previous year's
267 enrollment data and ad valorem receipts and in-lieu receipts of
268 the local school district in which the student resides and the
269 portion of the charter school's average daily membership for month



270 one (1) reflecting students who reside in the school district.
271 The pro rata amount must be calculated by dividing the sum of the
272 local school district's months one (1) through nine (9) average
273 daily membership and the portion of the charter school's average
274 daily membership for month one (1) of the current year reflecting
275 students who reside in the school district into the total amount
276 of ad valorem receipts and in-lieu receipts, as reported to the
277 State Department of Education by the local school district. The
278 local school district shall pay an amount equal to this pro rata
279 amount multiplied by the number of students enrolled in the
280 charter school, based on the charter school's end of first month
281 enrollment for the current school year. The amount must be paid
282 by the school district to the charter school before * * * March 15
283 of the current fiscal year. If the local school district does not
284 pay the required amount to the charter school before * * * March
285 15, the State Department of Education shall reduce the local school
286 district's * * * March transfer of Mississippi Adequate Education
287 Program funds by the amount owed to the charter school and shall
288 redirect that amount to the charter school. Any such payments
289 made under this subsection (2) by the State Department of
290 Education to a charter school must be made at the same time and in
291 the same manner as adequate education program payments are made to
292 school districts under Sections 37-151-101 and 37-151-103.

293 (3) For students attending a charter school located in a
294 school district in which the student does not reside, the State



295 Department of Education shall pay to the charter school in which
296 the student is enrolled an amount as follows: the pro rata ad
297 valorem receipts and in-lieu payments per pupil for the support of
298 the local school district in which the student resides under
299 Sections 37-57-1 (local contribution to the adequate education
300 program) and 37-57-105 (school district operational levy),
301 however, not including any taxes levied for the retirement of the
302 local school district's bonded indebtedness or short-term notes or
303 any taxes levied for the support of vocational-technical education
304 programs. The amount of funds payable to the charter school by
305 the school district must be based on the previous year's
306 enrollment data and ad valorem receipts and in-lieu receipts of
307 the local school district in which the student resides and the
308 portion of the charter school's average daily membership for month
309 one (1) reflecting students who reside in the school district.
310 The pro rata amount must be calculated by dividing the sum of the
311 local school district's months one (1) through nine (9) average
312 daily membership and the portion of the charter school's average
313 daily membership for month one (1) of the current year reflecting
314 students who reside in the school district into the total amount
315 of ad valorem receipts and in-lieu receipts, as reported to the
316 State Department of Education by the transferor local school
317 district. The payable amount shall be equal to this pro rata
318 amount multiplied by the number of students enrolled in the
319 charter school, based on the charter school's end of first month



320 enrollment for the current school year. The State Department of
321 Education shall reduce the school district's * * * transfer of
322 Mississippi Adequate Education Program funds by the amount owed to
323 the charter school and shall redirect that amount to the charter
324 school. In cases where the school district's transfer of
325 Mississippi Adequate Education Program funds is insufficient to
326 cover the amount it owes the charter school, the school district
327 shall pay the charter school the balance it owes from its own
328 funds, of which the Mississippi Charter School Authorizer Board
329 shall also receive 3% in accordance with Section 37-28-11. Any
330 such payments made under this subsection (3) by the State
331 Department of Education to a charter school must be made at the
332 same time and in the same manner as adequate education program
333 payments are made to school districts under Sections 37-151-101
334 and 37-151-103.

335 (4) (a) The State Department of Education shall direct the
336 proportionate share of monies generated under federal and state
337 categorical aid programs, including special education, vocational,
338 gifted and alternative school programs, to charter schools serving
339 students eligible for such aid. The department shall ensure that
340 charter schools with rapidly expanding enrollments are treated
341 equitably in the calculation and disbursement of all federal and
342 state categorical aid program dollars. Each charter school that
343 serves students who may be eligible to receive services provided



344 through such programs shall comply with all reporting requirements
345 to receive the aid.

346 (b) A charter school shall pay to a local school
347 district any federal or state aid attributable to a student with a
348 disability attending the charter school in proportion to the level
349 of services for that student which the local school district
350 provides directly or indirectly.

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

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

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

367 (6) The State Department of Education shall disburse
368 Education Enhancement Funds for classroom supplies, instructional



369 materials and equipment, including computers and computer software
370 to all eligible charter school teachers on the same basis and in
371 the same manner as it is paid to school districts under Section
372 37-61-33(3)(a)(iii) for the purpose of issuing procurement cards
373 or credentials for a digital solution to eligible teachers.

374 **SECTION 5.** This act shall take effect and be in force from
375 and after July 1, 2024.

