~~Indicates Matter Stricken~~

Indicates New Matter

The House assembled at 10:00 a.m.

Deliberations were opened with prayer by Rev. Charles E. Seastrunk, Jr., as follows:

Our thought for today is from Psalm 2:8: “Ask of me, and I will make the Nations your heritage, and the ends of the earth your possessions.”

Let us pray. Mighty and merciful God, as Your servants are called to represent the people of their districts, make them creative and compassionate, filled with the wisdom to do Your will in this place. Bless them with Your guidance and caring that they may be careful with what You have given to them. Bestow Your blessings upon our Nation, President, State, Governor, Speaker, staff, and all who serve in these Halls of Government. Protect our defenders of freedom as they protect us. Heal the wounds of our brave warriors, those seen and those hidden. Hear us, O Lord, as we pray. Amen.

Pursuant to Rule 6.3, the House of Representatives was led in the Pledge of Allegiance to the Flag of the United States of America by the SPEAKER.

After corrections to the Journal of the proceedings of yesterday, the SPEAKER ordered it confirmed.

**MOTION ADOPTED**

Rep. KNIGHT moved that when the House adjourns, it adjourn in memory of Ruth Lee, mother of House staff member Cynthia Lee, which was agreed to.

**REPORTS OF STANDING COMMITTEES**

Rep. SANDIFER, from the Committee on Labor, Commerce and Industry, submitted a favorable report on:

H. 3333 -- Reps. Sandifer, Toole, Bowers, Hayes and Erickson: A BILL TO AMEND SECTION 38-1-20, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS USED IN TITLE 38 RELATING TO THE DEPARTMENT OF INSURANCE, SO AS TO AMEND THE DEFINITION OF "ADMITTED ASSETS" TO INCLUDE THOSE ON THE MOST RECENT STATUTORY FINANCIAL STATEMENT OF THE INSURER FILED WITH THE DEPARTMENT OF INSURANCE PURSUANT TO THE PROVISIONS OF SECTION 38-13-80; TO AMEND SECTION 38-9-10, RELATING TO CAPITAL AND SURPLUS REQUIRED OF STOCK INSURERS, SO AS TO CHANGE THE MARKETABLE SECURITIES THAT MAY BE REQUIRED BY THE DIRECTOR OF INSURANCE; TO AMEND SECTION 38-9-20, RELATING TO THE SURPLUS REQUIRED OF MUTUAL INSURERS, SO AS TO CHANGE THE MARKETABLE SECURITIES WHICH MAY BE REQUIRED BY THE DIRECTOR OF INSURANCE; TO AMEND SECTION 38-9-210, RELATING TO THE REDUCTION FROM LIABILITY FOR THE REINSURANCE CEDED BY A DOMESTIC INSURER, SO AS TO CHANGE THE SECURITIES LISTED THAT QUALIFY AS SECURITY; TO AMEND SECTION 38-10-40, RELATING TO THE PROTECTED CELL ASSETS OF A PROTECTED CELL, SO AS TO CHANGE A CODE REFERENCE; TO AMEND SECTION 38-33-130, RELATING TO THE SECURITY DEPOSIT OF A HEALTH MAINTENANCE ORGANIZATION, SO AS TO DELETE THE REQUIREMENT THAT A HEALTH MAINTENANCE ORGANIZATION SHALL ISSUE A CONVERSION POLICY TO AN ENROLLEE UPON THE TERMINATION OF THE ORGANIZATION; AND TO AMEND SECTION 38-55-80, RELATING TO LOANS TO DIRECTORS OR OFFICERS BY AN INSURER, SO AS TO CHANGE A CODE REFERENCE.

Ordered for consideration tomorrow.

Rep. SANDIFER, from the Committee on Labor, Commerce and Industry, submitted a favorable report on:

H. 3414 -- Reps. Sandifer, Toole, Bowers, Hayes and Erickson: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38-90-213 SO AS TO PROVIDE CERTAIN FEATURES AND REQUIREMENTS CONCERNING A PROTECTED CELL; BY ADDING SECTION 38-90-215 SO AS TO PERMIT THE FORMATION OF A PROTECTED CELL AND TO PROVIDE REQUIREMENTS FOR ITS CREATION, OWNERSHIP AND OPERATION; BY ADDING SECTION 38-90-457 SO AS TO PROVIDE FOR THE FORMATION OF A PROTECTED CELL OF A SPECIAL PURPOSE FINANCIAL CAPTIVE; TO AMEND SECTION 33-9-100, RELATING TO ARTICLES OF DOMESTICATION FOR A FOREIGN CORPORATION, SO AS TO CHANGE THE WORD “STATE” TO “JURISDICTION”; TO AMEND SECTION 38-90-180, AS AMENDED, RELATING TO APPLICABILITY OF PROVISIONS RELATING TO INSURANCE REORGANIZATIONS, RECEIVERSHIPS, INJUNCTIONS, AND SPONSORED CAPTIVE INSURANCE COMPANY ASSETS AND CAPITAL PROVISIONS, SO AS TO PROVIDE FOR THE APPLICABILITY OF THE TERMS AND CONDITIONS OF CHAPTERS 26 AND 27, TITLE 38, TO A CAPTIVE INSURANCE COMPANY AND A PROTECTED CELL OF THIS COMPANY, AND TO PROVIDE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE MAY OBTAIN PERMISSION OF THE CIRCUIT COURT TO CONSERVE, REHABILITATE, OR LIQUIDATE ONE OR MORE PROTECTED CELLS, INDEPENDENTLY, WITHOUT CAUSING OR OTHERWISE EFFECTING CERTAIN ACTIONS, TO PROVIDE A DIRECTOR MAY NOT SEEK TO HAVE A SPONSORED CAPTIVE INSURANCE COMPANY DECLARED INSOLVENT IF AT LEAST ONE OF ITS PROTECTED CELLS REMAINS SOLVENT, AND TO PROVIDE THIS SECTION DOES NOT PREVENT THE DIRECTOR FROM TAKING CERTAIN ACTIONS TO THE CONSERVATION OR REHABILITATION OF A SPONSORED CAPTIVE INSURANCE COMPANY IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION 38-90-210, RELATING TO FORMATION OF A SPONSORED CAPTIVE INSURANCE COMPANY AND ESTABLISHING PROTECTED CELLS, SO AS TO ADD CONDITIONS UNDER WHICH A SPONSORED CAPTIVE INSURANCE COMPANY MAY ESTABLISH AND MAINTAIN ONE OR MORE PROTECTED CELLS TO INSURE RISKS OF ONE OR MORE OF ITS PARTICIPANTS; TO AMEND SECTION 38-90-220, AS AMENDED, RELATING TO REQUIREMENTS APPLICABLE TO SPONSORS, SO AS TO PROVIDE THE DIRECTOR MAY APPROVE AN ADDITIONAL ENTITY UNDER CERTAIN CONDITIONS; TO AMEND SECTION 38-90-230, AS AMENDED, RELATING TO PARTICIPANTS IN SPONSORED CAPTIVE INSURANCE COMPANIES, SO AS TO PROVIDE THE PARTICIPANT WHOSE RISKS ARE INSURED THROUGH CERTAIN PROTECTED CELL ENTITIES, THE SPONSOR, OR THE SPONSORED CAPTIVE INSURANCE COMPANY MUST BE THE OWNER OF THAT PROTECTED CELL ENTITY UNLESS OTHERWISE APPROVED BY THE DIRECTOR; TO AMEND SECTION 38-90-235, RELATING TO TERMS, CONDITIONS, AND EXCEPTIONS FOR PROTECTED CELL INSURANCE COMPANIES APPLICABLE TO SPONSORED CAPTIVE INSURANCE COMPANIES, SO AS TO PROVIDE FOR THE LAW THAT GOVERNS IN THE EVENT OF A CONFLICT; AND TO AMEND SECTION 38-90-485, RELATING TO THE EFFECT OF THE CREATION, NAMING, AND MANAGEMENT OF ASSETS OF A PROTECTED CELL, SO AS TO PROVIDE AN EXCEPTION FOR CERTAIN PROTECTED CELLS.

Ordered for consideration tomorrow.

Rep. HARRISON, from the Committee on Judiciary, submitted a favorable report with amendments on:

H. 3621 -- Reps. Bannister, Rutherford, Herbkersman, Weeks and J. E. Smith: A BILL TO AMEND SECTION 61-6-1035, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SAMPLING OF WINES, SO AS TO PERMIT RETAILERS TO CONDUCT TASTINGS.

Ordered for consideration tomorrow.

Rep. HARRISON, from the Committee on Judiciary, submitted a favorable report on:

H. 3668 -- Rep. Bannister: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING SECTION 56-1-745 RELATING TO THE DRIVER'S LICENSE SUSPENSION OF A PERSON CONVICTED OF A CONTROLLED SUBSTANCE VIOLATION.

Ordered for consideration tomorrow.

Rep. HARRISON, from the Committee on Judiciary, submitted a favorable report on:

H. 3403 -- Reps. Delleney, Simrill, Lucas, Hiott, Limehouse, Bowen, Bedingfield, Pinson, G. M. Smith, J. R. Smith, Bingham, Frye, V. S. Moss, Corbin, Bikas, Cooper, Allison, Branham, Parker, Toole, G. R. Smith, Henderson, Atwater, McCoy, Ballentine, Brannon, Clemmons, D. C. Moss, Hixon, Pitts, Young, Sandifer and Quinn: A BILL TO AMEND SECTION 2-7-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CONSTRUCTION OF THE WORDS "PERSON" AND "PARTY" AS THOSE WORDS APPEAR IN THE LAWS OF THIS STATE, SO AS TO PROVIDE FURTHER FOR THE CONSTRUCTION OF "PERSON", "HUMAN BEING", "CHILD", AND "INDIVIDUAL", SO THAT THEY INCLUDE EVERY INFANT MEMBER OF THE SPECIES HOMO SAPIENS WHO IS BORN ALIVE AND TO DEFINE "BORN ALIVE".

Ordered for consideration tomorrow.

Rep. HARRISON, from the Committee on Judiciary, submitted a favorable report with amendments on:

H. 3408 -- Reps. Delleney, Lucas, Simrill, Hiott, Limehouse, Bowen, Bedingfield, Pinson, J. R. Smith, G. M. Smith, Bingham, Thayer, V. S. Moss, Brannon, Bikas, Cooper, Allison, Toole, Parker, G. R. Smith, Frye, Atwater, Henderson, McCoy, Ballentine, Clemmons, Hixon, D. C. Moss, Pitts, Young and Quinn: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 5, TO CHAPTER 41, TITLE 44, TO ENACT THE "FREEDOM OF CONSCIENCE ACT" SO AS TO PROHIBIT AN EMPLOYER FROM DISMISSING, DEMOTING, SUSPENDING, DISCIPLINING, OR DISCRIMINATING AGAINST AN EMPLOYEE WHO ADVISES THE EMPLOYER THAT HE OR SHE REFUSES TO PARTICIPATE IN CERTAIN ACTIVITIES INCLUDING, BUT NOT LIMITED TO, PROCEDURES RELATED TO EMBRYONIC TISSUE OR A DEVELOPING CHILD IN AN ARTIFICIAL OR NATURAL WOMB; TO PROVIDE THAT A HEALTH CARE FACILITY IS NOT REQUIRED TO ADMIT A PATIENT, OR TO ALLOW THE USE OF THE FACILITY FOR PROCEDURES INCLUDING, BUT NOT LIMITED TO, PROCEDURES RELATED TO EMBRYONIC TISSUE OR A DEVELOPING CHILD IN AN ARTIFICIAL OR NATURAL WOMB AND TO PROVIDE THAT CERTAIN HEALTH CARE PROVIDERS AND EMPLOYEES OF SUCH PROVIDERS WHO PROVIDED NOTICE THAT THEY WILL NOT PARTICIPATE IN SUCH ACTIVITIES MUST NOT BE REQUIRED TO PARTICIPATE, MUST NOT BE DISCIPLINED DUE TO SUCH REFUSAL, AND ARE IMMUNE FROM LIABILITY FOR ANY DAMAGES CAUSED BY SUCH REFUSAL; TO PROVIDE THAT THE STATE MUST NOT REQUIRE AN INSURANCE PLAN OR ISSUER TO COVER PROCEDURES INCLUDING, BUT LIMITED TO, PROCEDURES RELATING TO EMBRYONIC TISSUE OR DEVELOPMENT OF A CHILD IN AN ARTIFICIAL OR NATURAL WOMB; TO PROHIBIT A HEALTH CARE FACILITY, SCHOOL, OR EMPLOYER FROM DISCRIMINATING AGAINST A PERSON REGARDING ADMISSION, HIRING OR FIRING, TERMS OF EMPLOYMENT, OR STUDENT OR STAFF STATUS BECAUSE THE PERSON REFUSES, WHETHER OR NOT IN WRITING, TO PARTICIPATE IN PROCEDURES INCLUDING, BUT NOT LIMITED TO, PROCEDURES RELATED TO EMBRYONIC TISSUE OR A DEVELOPING CHILD IN AN ARTIFICIAL OR NATURAL WOMB; TO PROVIDE THAT A PERSON MUST NOT BE REQUIRED TO PARTICIPATE IN, MAKE FACILITIES AVAILABLE FOR, OR PROVIDE PERSONNEL FOR PROCEDURES INCLUDING, BUT LIMITED TO, PROCEDURES RELATING TO EMBRYONIC TISSUE OR DEVELOPMENT OF A CHILD IN AN ARTIFICIAL OR NATURAL WOMB IF THE ACTIVITY IS CONTRARY TO THE PERSON'S CONSCIENCE; TO PROHIBIT DISCRIMINATION AGAINST A PERSON ESTABLISHING OR OPERATING A HEALTH CARE FACILITY BECAUSE THE FACILITY DECLINES TO PARTICIPATE IN A HEALTH CARE SERVICE THAT IS CONTRARY TO THE FACILITY'S CONSCIENCE; AND TO PROVIDE THAT A PERSON ADVERSELY AFFECTED BY CONDUCT THAT IS IN VIOLATION OF THIS ARTICLE MAY BRING A CIVIL ACTION FOR EQUITABLE RELIEF AND IF THE PERSON PREVAILS, THE COURT SHALL AWARD ATTORNEY'S FEES.

Ordered for consideration tomorrow.

**HOUSE RESOLUTION**

The following was introduced:

H. 3722 -- Rep. Forrester: A HOUSE RESOLUTION TO RECOGNIZE AND COMMEND THE PAUL M. DORMAN HIGH SCHOOL VARSITY GIRLS CROSS COUNTRY TEAM FOR ITS IMPRESSIVE WIN OF THE CLASS AAAA 2010 STATE CHAMPIONSHIP TITLE, AND TO HONOR THE PLAYERS AND COACHES ON AN OUTSTANDING SEASON.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3723 -- Rep. Forrester: A HOUSE RESOLUTION TO CONGRATULATE THE PAUL M. DORMAN HIGH SCHOOL BOYS SWIM TEAM ON ITS SUCCESSFUL PERFORMANCES IN THE CLASS AAAA DIVISION OF THE 2010 HIGH SCHOOL STATE SWIMMING CHAMPIONSHIPS, AND TO RECOGNIZE THE SWIMMERS AND THEIR COACHES ON A SENSATIONAL SEASON.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3724 -- Rep. Forrester: A HOUSE RESOLUTION TO RECOGNIZE AND COMMEND THE PAUL M. DORMAN HIGH SCHOOL VARSITY GIRLS TRACK AND FIELD TEAM FOR ITS IMPRESSIVE WIN OF THE CLASS AAAA 2010 STATE CHAMPIONSHIP TITLE, AND TO HONOR THE PLAYERS AND COACHES ON AN OUTSTANDING SEASON.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3725 -- Rep. Forrester: A HOUSE RESOLUTION TO CONGRATULATE THE PAUL M. DORMAN HIGH SCHOOL GIRLS SWIM TEAM ON ITS SUCCESSFUL PERFORMANCES IN THE CLASS AAAA DIVISION OF THE 2010 HIGH SCHOOL STATE SWIMMING CHAMPIONSHIPS, AND TO RECOGNIZE THE SWIMMERS AND THEIR COACHES ON A SENSATIONAL SEASON.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3726 -- Reps. Tallon, Allison, Anthony, Brannon, Chumley, Cole, Forrester, Mitchell and Parker: A HOUSE RESOLUTION TO RECOGNIZE AND HONOR MARIANNA BLACK HABISREUTINGER OF SPARTANBURG COUNTY, AND TO CONGRATULATE HER FOR BEING NAMED SOUTH CAROLINA MOTHER OF THE YEAR.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3727 -- Reps. Huggins, Ballentine, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Atwater, Bales, Bannister, Barfield, Battle, Bedingfield, Bikas, Bingham, Bowen, Bowers, Brady, Branham, Brannon, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Butler Garrick, Chumley, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Corbin, Crawford, Crosby, Daning, Delleney, Dillard, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Hamilton, Hardwick, Harrell, Harrison, Hart, Hayes, Hearn, Henderson, Herbkersman, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Jefferson, King, Knight, Limehouse, Loftis, Long, Lowe, Lucas, Mack, McCoy, McEachern, McLeod, Merrill, Mitchell, D. C. Moss, V. S. Moss, Munnerlyn, Murphy, Nanney, J. H. Neal, J. M. Neal, Neilson, Norman, Ott, Owens, Parker, Parks, Patrick, Pinson, Pitts, Pope, Quinn, Rutherford, Ryan, Sabb, Sandifer, Sellers, Simrill, Skelton, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stringer, Tallon, Taylor, Thayer, Toole, Tribble, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis and Young: A HOUSE RESOLUTION TO RECOGNIZE AND COMMEND SCHOOL DISTRICT 5 OF LEXINGTON AND RICHLAND COUNTIES AND ITS PARTNERS FOR THEIR ORGANIZATION OF THE 2011 BATTLE ON THE DAM WALK IN SUPPORT OF ACTIVE LIFESTYLES, AND TO ENCOURAGE THE PUBLIC TO PARTICIPATE IN THIS WORTHY EVENT, SET FOR SATURDAY, MARCH 5, 2011.

The Resolution was adopted.

**HOUSE RESOLUTION**

The following was introduced:

H. 3728 -- Reps. Gilliard, King, Williams and Whipper: A HOUSE RESOLUTION TO ENCOURAGE THE PUBLIC SCHOOL DISTRICTS OF THIS STATE, WHEN MAKING DECISIONS REGARDING THE TERMINATION OF PERSONNEL DUE TO BUDGET CONSTRAINTS, TO CONSIDER THOSE EMPLOYEES WHO EARN THE HIGHEST SALARIES IN THE DISTRICT BEFORE TERMINATING THOSE EMPLOYEES WHO EARN LESSER PAY.

The Resolution was ordered referred to the Committee on Education and Public Works.

**HOUSE RESOLUTION**

The following was introduced:

H. 3729 -- Reps. Gilliard, King, Jefferson, Mack and Whipper: A HOUSE RESOLUTION TO RECOGNIZE AND HONOR REVEREND LAWRENCE E. GORDON AND THE MEMBERS OF GREATER MACEDONIA AFRICAN METHODIST EPISCOPAL CHURCH OF CHARLESTON COUNTY, AND TO CONGRATULATE THEM, UPON THE OCCASION OF THE ONE HUNDREDTH ANNIVERSARY OF THE CHURCH AND ITS MINISTRY IN THE COMMUNITY.

The Resolution was adopted.

**INTRODUCTION OF BILLS**

The following Bills and Joint Resolution were introduced, read the first time, and referred to appropriate committees:

H. 3730 -- Reps. Munnerlyn, Sabb, Vick and Hayes: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 50-9-450 SO AS TO PROVIDE THAT A COMMERCIAL FUR LICENSE, IN ADDITION TO A STATE HUNTING LICENSE IS REQUIRED OF ALL PERSONS WHO SELL OR TAKE FUR BEARING ANIMALS BY ANY MEANS, EXCEPT A PROCESSOR, MANUFACTURER, OR RETAILER, AND TO PROVIDE THAT A PERSON UNDER THE AGE OF SIXTEEN MAY PURCHASE A COMMERCIAL FUR LICENSE WITHOUT HAVING TO PURCHASE A STATE HUNTING LICENSE AFTER COMPLETING THE TRAPPERS EDUCATION COURSE; TO AMEND SECTION 50-11-40, RELATING TO THE UNLAWFUL USE OF RECORDED SOUNDS OR AMPLIFIED IMITATIONS OF CALLS OR SOUNDS BY A PERSON TO HUNT, CATCH, TAKE, OR KILL A GAME BIRD OR GAME ANIMAL OR ATTEMPT TO HUNT, CATCH, TAKE, OR KILL A GAME BIRD OR GAME ANIMAL BY USE OF THESE MEANS, SO AS TO DELETE THE PROVISION THAT MAKES IT UNLAWFUL TO CATCH OR KILL A GAME BIRD OR GAME ANIMAL OR ATTEMPT TO CATCH OR KILL A GAME BIRD OR GAME ANIMAL BY USE OF THESE MEANS AND TO PROVIDE THAT THIS SECTION DOES NOT APPLY TO THE HUNTING AND TAKING OF COYOTES; TO AMEND SECTION 50-11-1080, RELATING TO THE DEPARTMENT OF NATURAL RESOURCES DECLARING OPEN SEASON ON COYOTES, SO AS TO PROVIDE THAT THERE IS NO CLOSED SEASON FOR HUNTING OR TAKING COYOTES WITH WEAPONS; TO AMEND SECTION 50-11-2400, RELATING TO DEFINITIONS OF CERTAIN TERMS THAT PERTAIN TO THE TRAPPING OF FUR BEARING ANIMALS, SO AS TO REVISE THE DEFINITION OF THE TERMS "FURBEARING ANIMAL" AND "COMMERCIAL PURPOSES", AND TO PROVIDE DEFINITIONS FOR THE TERMS "OWNER" AND "AGENT"; TO AMEND SECTION 50-11-2430, RELATING TO REQUIRING A FUR TRAPPER TO CARRY PROOF THAT HE IS THE OWNER OF THE PROPERTY ON WHICH HE SETS HIS TRAPS, OR HAS PERMISSION FROM THE OWNER OF THE PROPERTY UPON WHICH HIS TRAPS ARE SET, SO AS TO MAKE TECHNICAL CHANGES; TO AMEND SECTION 50-11-2440, RELATING TO REQUIRING A TRAPPER TO VISIT HIS TRAPS DAILY, SO AS TO MODIFY THE FREQUENCY THAT A TRAPPER MUST VISIT HIS TRAPS; TO AMEND SECTION 50-11-2445, RELATING TO THE REMOVAL OF TRAPPED WILDLIFE BY THE OWNERS OF TRAPS, SO AS TO ALLOW A TRAP OWNER'S DESIGNEE TO REMOVE WILDLIFE FROM HIS TRAPS, AND TO PROVIDE THAT A DESIGNEE MUST POSSESS WRITTEN PERMISSION FROM THE TRAP'S OWNER TO ACT ON HIS BEHALF AND MUST MEET ALL COMMERCIAL FUR LICENSING REQUIREMENTS OR BE LISTED ON A VALID DEPREDATION PERMIT; TO AMEND SECTION 50-11-2460, RELATING TO CERTAIN TRAPS THAT ARE ALLOWED FOR TRAPPING, SO AS TO MAKE TECHNICAL CHANGES, TO DELETE THE PROVISION THAT RESTRICTS THE TYPES OF TRAPS THAT ARE ALLOWED TO THOSE THAT ARE IN ACCORDANCE WITH APPROVED COMMERCIAL FUR LICENSES, TO ALLOW FOR THE USE OF LIVE TRAPS TO CAPTURE CERTAIN FERAL ANIMALS, TO REVISE THE SIZE OF FOOT-HOLD TRAPS THAT ARE ALLOWABLE, TO PROVIDE THAT SMALL SNAP, BOX, AND OTHER TRAPS ARE ALLOWED FOR TRAPPING; TO AMEND SECTION 50-11-2475, RELATING TO THE ISSUANCE OF A FUR PROCESSOR'S LICENSE, SO AS TO REVISE THE COST OF THE LICENSE, TO REQUIRE A TAXIDERMIST TO KEEP A DAILY REGISTER OF THE NAME AND ADDRESS OF EACH PERSON FROM WHOM A FURBEARING ANIMAL IS RECEIVED ALONG WITH OTHER INFORMATION ABOUT THE ANIMAL, AND TO MAKE TECHNICAL CHANGES; AND TO REPEAL SECTIONS 50-11-1060, 50-11-1070, AND 50-11-2420 RELATING TO THE ISSUANCE OF A COMMERCIAL FUR LICENSE, THE ISSUANCE OF A PERMIT TO POISON PREDATORY ANIMALS, AND THE KILLING OF BOBCATS.

Referred to Committee on Agriculture, Natural Resources and Environmental Affairs

H. 3731 -- Reps. Owens, Brantley, Daning, Brannon, Atwater, Patrick, Erickson, Bowen, R. L. Brown, Crosby, Long, Taylor and Willis: A BILL TO AMEND SECTION 56-27-30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TERM AND COST OF A PROFESSIONAL HOUSEMOVING LICENSE, SO AS TO REVISE THE ANNUAL RENEWAL FEE; AND TO AMEND SECTION 57-3-130, AS AMENDED, RELATING TO THE DEPARTMENT OF TRANSPORTATION'S SPECIAL PERMITS THAT AUTHORIZE A PERSON TO OPERATE OR MOVE A VEHICLE THAT EXCEEDS A CERTAIN SIZE, SO AS TO PROVIDE THAT THE DEPARTMENT MAY DETERMINE THE MAXIMUM SPEEDS AT WHICH PERMITTED LOADS MAY OPERATE, TO PROVIDE THAT FOR A LOAD TRAVELING UNDER POLICE ESCORT, THE ESCORT OFFICER MAY EXERCISE DISCRETION WHEN TEMPORARILY MOVING OUT OF THE TRAVELED WAY, AND TO PROVIDE AN ADDITIONAL

IMPACT FEE FOR LOADS THAT EXCEED FIVE HUNDRED THOUSAND POUNDS.

Referred to Committee on Labor, Commerce and Industry

H. 3732 -- Rep. D. C. Moss: A BILL TO AMEND SECTION 56-3-2150, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE OF SPECIAL LICENSE PLATES TO CERTAIN CURRENT AND FORMER PUBLIC OFFICIALS, SO AS TO PROVIDE THAT A CORONER MAY BE ISSUED TWO SPECIAL LICENSE PLATES.

Referred to Committee on Education and Public Works

H. 3733 -- Rep. Cooper: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 6-1-180 SO AS TO PROHIBIT A MUNICIPALITY OR COUNTY, OR A UNIT OR AGENCY OF IT, FROM IMPOSING A FEE OR SEEKING REIMBURSEMENT OF COSTS OR EXPENSES INCURRED AS A RESULT OF RESPONDING TO A MOTOR VEHICLE ACCIDENT, TO PROVIDE EXCEPTIONS, AND TO PERMIT A UNIT OF GOVERNMENT TO SEEK TO COLLECT FROM ANOTHER UNIT OF GOVERNMENT THE REASONABLE COSTS INCURRED FOR RESPONDING TO A MOTOR VEHICLE ACCIDENT OUTSIDE ITS JURISDICTION.

Referred to Committee on Labor, Commerce and Industry

H. 3734 -- Rep. Knight: A JOINT RESOLUTION TO PROVIDE THAT THE SCHOOL DAYS MISSED ON JANUARY 10 AND 11, 2011, BY THE STUDENTS OF DORCHESTER COUNTY SCHOOL DISTRICT TWO WHEN THE SCHOOLS WERE CLOSED DUE TO SNOW ARE EXEMPT FROM THE REQUIREMENT THAT FULL SCHOOL DAYS MISSED DUE TO SNOW, EXTREME WEATHER, OR OTHER DISRUPTIONS BE MADE UP.

On motion of Rep. KNIGHT, with unanimous consent, the Joint Resolution was ordered placed on the Calendar without reference.

H. 3735 -- Reps. Loftis, Chumley, Neilson, Hamilton, Sandifer, J. R. Smith and Whitmire: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 12 TO TITLE 39 TO ENACT THE "SOUTH CAROLINA INCANDESCENT LIGHT BULB FREEDOM ACT" SO AS TO PROVIDE THAT INCANDESCENT LIGHT BULBS MANUFACTURED IN THIS STATE, WITHOUT SIGNIFICANT PARTS IMPORTED FROM ANOTHER STATE, AND OFFERED FOR SALE AND SOLD FOR USE ONLY IN THIS STATE ARE DEEMED ONLY TO BE IN THE STREAM OF INTRASTATE COMMERCE AND THEREFORE NOT SUBJECT TO FEDERAL REGULATION UNDER THE COMMERCE CLAUSE OF THE UNITED STATES CONSTITUTION.

Referred to Committee on Labor, Commerce and Industry

**ROLL CALL**

The roll call of the House of Representatives was taken resulting as follows:

|  |  |  |
| --- | --- | --- |
| Agnew | Alexander | Allen |
| Allison | Anderson | Anthony |
| Bales | Bannister | Barfield |
| Battle | Bikas | Bingham |
| Bowen | Bowers | Brady |
| Branham | Brannon | Brantley |
| H. B. Brown | R. L. Brown | Butler Garrick |
| Chumley | Clemmons | Clyburn |
| Cobb-Hunter | Cole | Cooper |
| Corbin | Crawford | Crosby |
| Daning | Delleney | Dillard |
| Edge | Erickson | Forrester |
| Frye | Gambrell | Gilliard |
| Govan | Hamilton | Hardwick |
| Harrell | Harrison | Hart |
| Hayes | Hearn | Henderson |
| Herbkersman | Hiott | Hixon |
| Hodges | Hosey | Huggins |
| Jefferson | King | Knight |
| Limehouse | Loftis | Lowe |
| Mack | McCoy | McEachern |
| McLeod | Merrill | Mitchell |
| D. C. Moss | V. S. Moss | Munnerlyn |
| Murphy | Nanney | J. H. Neal |
| Neilson | Norman | Ott |
| Owens | Parker | Patrick |
| Pitts | Pope | Ryan |
| Sabb | Sandifer | Sellers |
| Simrill | Skelton | G. M. Smith |
| G. R. Smith | J. R. Smith | Sottile |
| Spires | Stavrinakis | Stringer |
| Tallon | Taylor | Thayer |
| Toole | Tribble | Vick |
| Whipper | White | Whitmire |
| Williams | Willis | Young |

**STATEMENT OF ATTENDANCE**

I came in after the roll call and was present for the Session on Wednesday, February 23.

|  |  |
| --- | --- |
| Deborah A. Long | James Neal |
| James Lucas | Grady Brown |
| Lewis E. Pinson | Richard "Rick" Quinn |
| Anne Parks | Nathan Ballentine |
| Laurie Funderburk | Todd Rutherford |
| David Weeks | Thad Viers |
| Leon Howard |  |

**Total Present--118**

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. UMPHLETT a leave of absence for the day due to medical reasons.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. J. E. SMITH a leave of absence for the day due to military service.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. HORNE a leave of absence for the day due to a prior commitment with the Liberty Fellowship Program.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. ATWATER a leave of absence for the day due to medical reasons.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. BEDINGFIELD a leave of absence for the day due to medical reasons.

**LEAVE OF ABSENCE**

The SPEAKER granted Rep. BALLENTINE a temporary leave of absence due to a doctor's appointment.

**STATEMENT OF ATTENDANCE**

Rep. LIMEHOUSE signed a statement with the Clerk that he came in after the roll call of the House and was present for the Session on Tuesday, February 22.

**SPECIAL PRESENTATION**

Reps. HOSEY and SELLERS presented to the House the Jefferson Davis Academy "Raiders" Varsity Football Team, the 2010 South Carolina Independent Schools Association Football Champions, their coaches and other school officials.

**SPECIAL PRESENTATION**

Rep. CLEMMONS presented to the House the Myrtle Beach High School "Seahawks", the 2010 AAA Football Champions, their coaches and other school officials.

**CO-SPONSORS ADDED AND REMOVED**

In accordance with House Rule 5.2 below:

"5.2 Every bill before presentation shall have its title endorsed; every report, its title at length; every petition, memorial, or other paper, its prayer or substance; and, in every instance, the name of the member presenting any paper shall be endorsed and the papers shall be presented by the member to the Speaker at the desk. A member may add his name to a bill or resolution or a co‑sponsor of a bill or resolution may remove his name at any time prior to the bill or resolution receiving passage on second reading. The member or co‑sponsor shall notify the Clerk of the House in writing of his desire to have his name added or removed from the bill or resolution. The Clerk of the House shall print the member’s or co‑sponsor’s written notification in the House Journal. The removal or addition of a name does not apply to a bill or resolution sponsored by a committee.”

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3067 |
| Date: | ADD: |
| 02/23/11 | MCCOY |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3129 |
| Date: | ADD: |
| 02/23/11 | MCCOY |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3154 |
| Date: | ADD: |
| 02/23/11 | MCCOY |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3228 |
| Date: | ADD: |
| 02/23/11 | MCCOY |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3241 |
| Date: | ADD: |
| 02/23/11 | LOFTIS |

**CO-SPONSORS ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3333 |
| Date: | ADD: |
| 02/23/11 | TOOLE, BOWERS, HAYES and ERICKSON |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3357 |
| Date: | ADD: |
| 02/23/11 | BRANTLEY |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3361 |
| Date: | ADD: |
| 02/23/11 | BRANTLEY |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3368 |
| Date: | ADD: |
| 02/23/11 | YOUNG |

**CO-SPONSORS ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3403 |
| Date: | ADD: |
| 02/23/11 | SANDIFER and QUINN |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3406 |
| Date: | ADD: |
| 02/23/11 | QUINN |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3408 |
| Date: | ADD: |
| 02/23/11 | QUINN |

**CO-SPONSORS ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3414 |
| Date: | ADD: |
| 02/23/11 | TOOLE, BOWERS, HAYES and ERICKSON |

**CO-SPONSORS ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3419 |
| Date: | ADD: |
| 02/23/11 | YOUNG, TAYLOR, HIXON and J. R. SMITH |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3641 |
| Date: | ADD: |
| 02/23/11 | KNIGHT |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3225 |
| Date: | ADD: |
| 02/23/11 | PITTS |

**CO-SPONSOR ADDED**

|  |  |
| --- | --- |
| Bill Number: | H. 3506 |
| Date: | ADD: |
| 02/23/11 | PITTS |

**CO-SPONSOR REMOVED**

|  |  |
| --- | --- |
| Bill Number: | H. 3660 |
| Date: | REMOVE: |
| 02/23/11 | GILLIARD |

**SENT TO THE SENATE**

The following Bills and Joint Resolutions were taken up, read the third time, and ordered sent to the Senate:

H. 3704 -- Rep. Hosey: A JOINT RESOLUTION TO PROVIDE THAT THE SCHOOL DAYS MISSED ON JANUARY 10 AND 11, 2011, BY THE STUDENTS OF BARNWELL COUNTY SCHOOL DISTRICT FORTY-FIVE WHEN THE SCHOOLS WERE CLOSED DUE TO SNOW ARE EXEMPT FROM THE REQUIREMENT THAT FULL SCHOOL DAYS MISSED DUE TO SNOW, EXTREME WEATHER, OR OTHER DISRUPTIONS BE MADE UP.

H. 3705 -- Rep. Hosey: A JOINT RESOLUTION TO PROVIDE THAT THE SCHOOL DAYS MISSED ON JANUARY 10 AND 11, 2011, BY THE STUDENTS OF BARNWELL COUNTY SCHOOL DISTRICT TWENTY-NINE WHEN THE SCHOOLS WERE CLOSED DUE TO SNOW ARE EXEMPT FROM THE REQUIREMENT THAT FULL SCHOOL DAYS MISSED DUE TO SNOW, EXTREME WEATHER, OR OTHER DISRUPTIONS BE MADE UP.

H. 3706 -- Rep. Hosey: A JOINT RESOLUTION TO PROVIDE THAT THE SCHOOL DAYS MISSED ON JANUARY 10 AND 11, 2011, BY THE STUDENTS OF BARNWELL COUNTY SCHOOL DISTRICT NINETEEN WHEN THE SCHOOLS WERE CLOSED DUE TO SNOW ARE EXEMPT FROM THE REQUIREMENT THAT FULL SCHOOL DAYS MISSED DUE TO SNOW, EXTREME WEATHER, OR OTHER DISRUPTIONS BE MADE UP.

H. 3413 -- Reps. Sandifer and Brady: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING CHAPTER 140 TO TITLE 44 SO AS TO ESTABLISH THE SOUTH CAROLINA HEALTH INFORMATION EXCHANGE (SCHIEX), TO ESTABLISH THE SOUTH CAROLINA HEALTH INFORMATION EXCHANGE COUNCIL AS THE GOVERNING BODY OF SCHIEX TO OVERSEE AND GOVERN THE EXCHANGE OF HEALTH-RELATED INFORMATION THROUGH SCHIEX, TO PROVIDE FOR THE COUNCIL'S POWERS AND DUTIES, AND TO FURTHER PROVIDE FOR THE ELECTRONIC MOVEMENT OF HEALTH-RELATED INFORMATION THROUGH SCHIEX; AND TO AMEND SECTION 8-17-370, AS AMENDED, RELATING TO EXEMPTIONS FROM THE STATE EMPLOYEE GRIEVANCE PROCEDURES, SO AS TO INCLUDE THE EXECUTIVE DIRECTOR OF SCHIEX IN THESE EXEMPTIONS.

H. 3584 -- Reps. Sandifer and Gambrell: A BILL TO AMEND SECTION 58-37-50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE FINANCING AGREEMENTS FOR THE INSTALLATION OF CERTAIN ENERGY-EFFICIENCY AND CONSERVATION IMPROVEMENTS, SO AS TO CORRECT AN ERRONEOUS CROSS-REFERENCE, AND TO PROVIDE WHERE AN ELECTRICITY OR NATURAL GAS PROVIDER CONTRACTS WITH A THIRD PARTY TO PERFORM CERTAIN FUNCTIONS, THE LIABILITY OF THE THIRD PARTY IS LIMITED IN A SPECIFIC MANNER.

H. 3178 -- Reps. Pitts, Limehouse, Hixon and Long: A BILL TO AMEND SECTION 61-4-550, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SPECIAL PERMITS FOR THE SALE OF BEER AND WINE, SO AS TO REMOVE SPECIFIC REFERENCES TO NONPROFIT ORGANIZATIONS.

H. 3417 -- Rep. Funderburk: A BILL TO AMEND SECTION 6-11-10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE AUTHORITY TO ESTABLISH SPECIAL PURPOSE OR PUBLIC SERVICE DISTRICTS, SO AS TO INCLUDE THE PROVISION OF EMERGENCY MEDICAL AND RESCUE RESPONSE SERVICES AS AN AUTHORIZED PURPOSE FOR WHICH A SPECIAL PURPOSE OR PUBLIC SERVICE DISTRICT MAY BE ESTABLISHED.

H. 3392 -- Reps. Clemmons, Sellers, Allen, G. M. Smith and Weeks: A BILL TO AMEND SECTION 7-13-35, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIRED NOTICE FOR GENERAL, MUNICIPAL, SPECIAL, AND PRIMARY ELECTIONS, SO AS TO CHANGE THE POSTED TIME AT WHICH ABSENTEE BALLOTS MAY BEGIN TO BE EXAMINED FROM 2:00 P.M. TO 9:00 A.M. AND TO REQUIRE NOTIFICATION OF THE DATE THE MAKE-UP ELECTION WILL BE HELD IN THE EVENT OF INCLEMENT WEATHER OR OTHER EMERGENCY; TO AMEND SECTION 7-13-40, AS AMENDED, RELATING TO THE DATE BY WHICH THE PARTY CHAIRMAN, VICE CHAIRMAN, OR SECRETARY MUST PROVIDE WRITTEN CERTIFICATION OF THE CANDIDATES' NAMES TO THE STATE ELECTION COMMISSION, SO AS TO CHANGE THE DATE FROM APRIL NINTH TO APRIL FIFTH; TO AMEND SECTION 7-13-190, AS AMENDED, RELATING TO SPECIAL ELECTIONS, SO AS TO PROVIDE THAT IF THE GOVERNOR DECLARES A STATE OF EMERGENCY COVERING AN ENTIRE JURISDICTION HOLDING AN ELECTION, THE ELECTION MUST BE POSTPONED AND HELD ON THE NEXT TUESDAY; AND TO AMEND SECTION 7-13-350, AS AMENDED, RELATING TO THE CERTIFICATION OF CANDIDATES, SO AS TO CHANGE THE DATE BY WHICH CANDIDATES FOR PRESIDENT AND VICE PRESIDENT MUST BE CERTIFIED TO THE STATE ELECTION COMMISSION FROM SEPTEMBER TENTH TO THE FIRST TUESDAY FOLLOWING THE FIRST MONDAY IN SEPTEMBER.

H. 3349 -- Reps. Clemmons, Sellers, Allen, G. M. Smith and Weeks: A BILL TO AMEND SECTION 7-5-120, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE QUALIFICATIONS FOR REGISTRATION TO VOTE, SO AS TO AUTHORIZE A UNITED STATES CITIZEN OUTSIDE THE UNITED STATES UNDER CERTAIN CONDITIONS TO BE ELIGIBLE TO REGISTER AND VOTE WHERE HIS PARENT IS A QUALIFIED ELECTOR; AND TO AMEND SECTION 7-15-110, AS AMENDED, RELATING TO PERSONS QUALIFIED TO VOTE BY ABSENTEE BALLOT, SO AS TO AUTHORIZE A PERSON TO VOTE BY ABSENTEE BALLOT IF HE OR A PARENT LAST RESIDED IN THIS STATE IMMEDIATELY BEFORE HIS OR HIS PARENT'S DEPARTURE FROM THE UNITED STATES.

**ORDERED TO THIRD READING**

The following Bill was taken up, read the second time, and ordered to a third reading:

S. 563 -- Senators Rose and Matthews: A BILL TO AMEND ACT 1627 OF 1972, AS AMENDED, RELATING TO THE DORCHESTER COUNTY CAREER AND TECHNOLOGY CENTER BOARD OF TRUSTEES, TO PROVIDE THAT THE DORCHESTER COUNTY COUNCIL SHALL APPOINT ALL MEMBERS OF THE BOARD OF TRUSTEES.

STATEMENT FOR THE JOURNAL

I object to S. 563, because as a member of the Dorchester Legislative Delegation, I believe we should not relinquish our duties to the Dorchester County Council.

Rep. Patsy Knight

**ORDERED ENROLLED FOR RATIFICATION**

The following Joint Resolution was read the third time, passed and, having received three readings in both Houses, it was ordered that the title be changed to that of an Act, and that it be enrolled for ratification:

S. 345 -- Senators Setzler, McGill, Land, Reese, Elliott, Williams, Nicholson, Lourie, Coleman, Sheheen, Matthews, Leventis, Alexander, Pinckney, Malloy, O'Dell, S. Martin, Peeler and L. Martin: A JOINT RESOLUTION TO PROVIDE THAT THE GOVERNING BODY OF ANY SCHOOL DISTRICT OF THIS STATE MAY WAIVE UP TO FIVE DAYS SCHOOL DAYS MISSED DUE TO INCLEMENT WEATHER DURING THE 2010-2011 SCHOOL YEAR FROM THE MAKE UP REQUIREMENT THAT FULL SCHOOL DAYS MISSED DUE TO INCLEMENT WEATHER, OR OTHER DISRUPTIONS BE MADE UP.

**H. 3516--POINT OF ORDER**

The following Joint Resolution was taken up:

H. 3516 -- Rep. Cooper: A JOINT RESOLUTION TO PROVIDE THAT THE PROVISIONS OF SECTION 6-27-50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RESTRICTIONS ON AMENDING OR REPEALING PROVISIONS IN THE STATE AID TO SUBDIVISIONS ACT ARE SUSPENDED FOR FISCAL YEAR 2011-2012, AND TO PROVIDE THAT FOR FISCAL YEAR 2011-2012 COUNTIES MAY TRANSFER AMONG APPROPRIATED STATE REVENUES AS NEEDED TO ENSURE THE DELIVERY OF SERVICES.

**POINT OF ORDER**

Rep. COBB-HUNTER made the Point of Order that the Joint Resolution was improperly before the House for consideration since its number and title have not been printed in the House Calendar at least one statewide legislative day prior to second reading.

The SPEAKER sustained the Point of Order.

**H. 3419--POINT OF ORDER**

The following Bill was taken up:

H. 3419 -- Reps. Merrill, Bingham, Young, Taylor, Hixon and J. R. Smith: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE "TAXPAYER FAIRNESS ACT" BY ADDING SECTION 12-4-397 SO AS TO PROVIDE THE MANNER IN WHICH THE SOUTH CAROLINA DEPARTMENT OF REVENUE MUST INTERPRET TAX STATUTES OF THIS STATE, TO PROVIDE THAT TERMS IN THE TAX STATUTES OF THIS STATE MAY NOT BE GIVEN BROADER MEANING THAN INTENDED BY POLICY DOCUMENTS AND REGULATIONS OF THE DEPARTMENT OF REVENUE, TO PROVIDE THAT AMBIGUITY IN TAX STATUTES MUST BE RESOLVED IN FAVOR OF THE TAXPAYER, TO REQUIRE THE DEPARTMENT TO REPORT AMBIGUITIES TO CERTAIN MEMBERS OF THE GENERAL ASSEMBLY, AND TO DEFINE "TAX STATUTES OF THIS STATE".

**POINT OF ORDER**

Rep. PARKS made the Point of Order that the Bill was improperly before the House for consideration since its number and title have not been printed in the House Calendar at least one statewide legislative day prior to second reading.

The SPEAKER sustained the Point of Order.

**H. 3368--POINT OF ORDER**

The following Bill was taken up:

H. 3368 -- Reps. G. R. Smith, Harrell, Bingham, Harrison, Cooper, Huggins, Bowen, Brady, Atwater, Parker, Clemmons, Crawford, D. C. Moss, Pinson, Loftis, Lowe, Allison, Bedingfield, Owens, Frye, Hardwick, Lucas, Quinn, Hamilton, Toole, Bannister, Whitmire, Stringer, Ballentine, Henderson, Nanney, Hearn, Bikas, V. S. Moss, Sottile, Gambrell, J. R. Smith, Corbin, Brannon, McCoy, Crosby, Barfield, Cole, Daning, Delleney, Hixon, Horne, Long, Murphy, Sandifer, G. M. Smith, Spires, Taylor and Young: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 11-11-415 SO AS TO PROVIDE THAT THE LIMIT ON GENERAL FUND APPROPRIATIONS FOR A FISCAL YEAR IS THE TOTAL AMOUNT OF THE GENERAL FUND REVENUE ESTIMATE AS OF FEBRUARY 15, 2010 FOR FISCAL YEAR 2010-2011, INCREASED ANNUALLY AND CUMULATIVELY BY A PERCENTAGE DETERMINED BY POPULATION INCREASES AND INCREASES IN THE CONSUMER PRICE INDEX, TO PROVIDE FOR THE LIMITATION TO BE SUSPENDED FOR A FISCAL YEAR FOR A SPECIFIC AMOUNT UPON A SPECIAL VOTE OF THE GENERAL ASSEMBLY AND TO DEFINE THIS SPECIAL VOTE, TO ESTABLISH THE SPENDING LIMIT RESERVE FUND TO WHICH ALL SURPLUS GENERAL FUND REVENUES MUST BE CREDITED, TO PROVIDE FOR THE PRIORITY USES OF THE REVENUES OF THIS FUND, TO PROVIDE FOR THE APPROPRIATION OF FUND REVENUES AFTER THESE PRIORITIES ARE MET, TO REQUIRE THAT APPROPRIATION OF REVENUES OF THIS FUND MUST BE BY A JOINT RESOLUTION ORIGINATING IN THE HOUSE OF REPRESENTATIVES, AND TO PROVIDE THAT THIS LIMIT FIRST APPLIES FOR FISCAL YEAR 2011-2012.

**POINT OF ORDER**

Rep. HERBKERSMAN made the Point of Order that the Bill was improperly before the House for consideration since its number and title have not been printed in the House Calendar at least one statewide legislative day prior to second reading.

The SPEAKER sustained the Point of Order.

**H. 3716--POINT OF ORDER**

The following Bill was taken up:

H. 3716 -- Ways and Means Committee: A BILL TO AMEND CHAPTER 20, TITLE 59, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EDUCATION FINANCE ACT OF 1977, SO AS TO RENAME THE CHAPTER, DEFINE CERTAIN TERMS, REVISE THE PURPOSE OF THE CHAPTER, REVISE PUPIL WEIGHTINGS WITHIN THE ALLOCATION FORMULA, DELETE PROVISIONS REGARDING SCHOOL AND DISTRICT IMPROVEMENT PLANS, DELETE THE INFLATION ADJUSTMENT TO STATE FUNDS FOR SCHOOL DISTRICTS, DELETE THE PROVISION THAT A SCHOOL DISTRICT MAY NOT RECEIVE HOLD HARMLESS FUNDS, DELETE THE REQUIREMENT THAT TEACHER SALARIES MUST BE ADJUSTED TO STAY AT THE SOUTHEASTERN AVERAGE, PROVIDE WHAT THE STATE MINIMUM SALARY SCHEDULE MUST INCLUDE, PROVIDE THAT TEACHER SALARIES IN THE FISCAL YEAR AFTER A FURLOUGH HAS BEEN IMPOSED MUST BE BASED ON THE TEACHER SALARY IN THE YEAR PRIOR TO THE FURLOUGH, PROVIDE THAT TEACHER PAY RAISES MAY BE PROVIDED AT THE DISCRETION OF THE SCHOOL DISTRICT, REVISE HOW A TEACHER MAY QUALIFY FOR A PAY RAISE, REQUIRE THE DEPARTMENT TO DEVELOP AN INCENTIVE COMPENSATION SYSTEM BASED ON TEACHER PERFORMANCE FOR TEACHERS AND PROVIDE REPORTING REQUIREMENTS, REQUIRE A SCHOOL DISTRICT TO PUBLISH THE ACTUAL PERCENTAGE OF ITS PER PUPIL EXPENDITURES USED FOR CLASSROOM INSTRUCTION, INSTRUCTIONAL SUPPORT, AND NON-INSTRUCTIONAL PUPIL SERVICES, REQUIRE THE DISTRICT TO SPEND AT LEAST SEVENTY PERCENT OF ITS PER PUPIL EXPENDITURES IN THESE CATEGORIES, AND DELETE OBSOLETE REFERENCES; BY ADDING ARTICLE 2 TO CHAPTER 139, TITLE 59 SO AS TO REQUIRE EACH SCHOOL DISTRICT BOARD OF TRUSTEES TO DEVELOP FIVE-YEAR PLANS FOR THE DISTRICT AND FOR THE SCHOOLS OF THE DISTRICT, PROVIDE WHAT THESE PLANS MUST INCLUDE, AND PROVIDE FOR ALLOCATION OF FUNDING FOR ELEMENTS OF THE PLAN; AND BY ADDING SECTION 59-19-91 SO AS TO REQUIRE A SCHOOL DISTRICT BOARD OF TRUSTEES TO ESTABLISH AN IMPROVEMENT COUNCIL AT EACH SCHOOL IN THE DISTRICT, PROVIDE WHO MAY SERVE ON THE COUNCIL, PROVIDE THE DUTIES OF THE COUNCIL, AND PROVIDE TERMS FOR COUNCIL MEMBERS.

**POINT OF ORDER**

Rep. HERBKERSMAN made the Point of Order that the Bill was improperly before the House for consideration since its number and title have not been printed in the House Calendar at least one statewide legislative day prior to second reading.

The SPEAKER sustained the Point of Order.

**OBJECTION TO RECALL**

Rep. HART asked unanimous consent to recall H. 3536 from the Committee on Labor, Commerce and Industry.

Rep. SIMRILL objected.

**OBJECTION TO RECALL**

Rep. DELLENEY asked unanimous consent to recall H. 3406 from the Committee on Ways and Means.

Rep. SELLERS objected.

**MOTION PERIOD**

The motion period was dispensed with on motion of Rep. TAYLOR.

**H. 3241--INTERRUPTED DEBATE**

The following Bill was taken up:

H. 3241 -- Reps. Owens, Stringer, G. R. Smith, Harrison, Daning, Hamilton, Bingham, Long, Henderson, Atwater, Lucas, Clemmons, Cooper, Horne, Simrill, D. C. Moss, Sandifer, Harrell, Erickson, Norman, Barfield and Loftis: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-40-55 SO AS TO PROVIDE CHARTER SCHOOL POWERS AND DUTIES AND TO ALLOW A SPONSOR TO RETAIN CERTAIN FUNDS FOR OVERSEEING THE CHARTER SCHOOL; BY ADDING SECTION 59-40-175 SO AS TO CREATE THE CHARTER SCHOOL FACILITY REVOLVING LOAN PROGRAM FOR THE CONSTRUCTION, PURCHASE, RENOVATION, AND MAINTENANCE OF PUBLIC CHARTER SCHOOL FACILITIES; TO AMEND SECTION 59-40-20, AS AMENDED, RELATING TO THE PURPOSE OF THE CHARTER SCHOOL ACT, SO AS TO INCLUDE AN ADDITIONAL PURPOSE; TO AMEND SECTION 59-40-40, AS AMENDED, RELATING TO DEFINITIONS, SO AS TO AMEND EXISTING DEFINITIONS AND ADD NEW DEFINITIONS; TO AMEND SECTION 59-40-50, AS AMENDED, RELATING TO CHARTER SCHOOL POWERS AND DUTIES, SO AS TO ALLOW FOR THE APPLICATION TO CREATE A SINGLE GENDER CHARTER SCHOOL, REVISE PRIORITY ENROLLMENT LIMITS, PROVIDE FOR THE ELECTION OF A CHARTER SCHOOL BOARD OF DIRECTORS, PROVIDE FOR BOARD MEETING NOTICE REQUIREMENTS, ALLOW A CHARTER SCHOOL TO CONTRACT WITH PROVIDERS FOR STUDENT TRANSPORTATION, AND ALLOW CHARTER SCHOOL STUDENTS TO PARTICIPATE IN CERTAIN EXTRACURRICULAR ACTIVITIES UNDER CERTAIN CONDITIONS; TO AMEND SECTION 59-40-60, AS AMENDED, RELATING TO APPLICATION TO CREATE A CHARTER SCHOOL, SO AS TO CLARIFY WHAT MUST BE INCLUDED IN THE CONTRACT, AND TO REQUIRE THE DEPARTMENT OF EDUCATION TO CREATE A CONTRACT TEMPLATE; TO AMEND SECTION 59-40-70, AS AMENDED, RELATING TO THE CHARTER SCHOOL ADVISORY COMMITTEE, SO AS TO REVISE ITS MEMBERSHIP AND TO EXTEND THE TIME PERIOD IN WHICH THE COMMITTEE SHALL DETERMINE APPLICATION COMPLIANCE AND THE TIME IN WHICH A LOCAL SCHOOL DISTRICT SHALL RULE ON THE APPLICATION; TO AMEND SECTION 59-40-100, AS AMENDED, RELATING TO CHARTER SCHOOL CONVERSION, SO AS TO REQUIRE THE STATE BOARD OF EDUCATION TO PROMULGATE REGULATIONS PROVIDING FOR PAPER BALLOTS, TO REVISE PRIORITY ENROLLMENT PROCEDURES FOR A CONVERTED CHARTER SCHOOL, AND TO ALLOW A CONVERTED CHARTER SCHOOL TO RETAIN FACILITIES AND EQUIPMENT AVAILABLE BEFORE CONVERSION; TO AMEND SECTION 59-40-110, AS AMENDED, RELATING TO THE DURATION OF A CHARTER, SO AS TO ALLOW A SPONSOR TO IMMEDIATELY REVOKE A CHARTER AND CLOSE THE SCHOOL UPON CERTAIN CONDITIONS; TO AMEND SECTION 59-40-140, AS AMENDED, RELATING TO DISTRIBUTION OF RESOURCES, SO AS TO PROVIDE FOR THE DISTRIBUTION OF FUNDS TO CHARTER SCHOOLS, TO REVISE WHAT THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL DISTRICT SHALL RECEIVE, TO ALLOW THE DEPARTMENT OF EDUCATION TO FINE SPONSORS THAT FAIL TO DISTRIBUTE CERTAIN FUNDS TO CHARTER SCHOOLS, AND TO REVISE REPORTING REQUIREMENTS; TO AMEND SECTION 59-40-190, AS AMENDED, RELATING TO LIABILITY OF A GOVERNING BODY OF A CHARTER SCHOOL, SO AS TO PROVIDE IMMUNITY TO A LOCAL SCHOOL DISTRICT FOR CRIMINAL OR CIVIL LIABILITY REGARDING ACTIVITIES RELATED TO A SPONSORED CHARTER SCHOOL; TO AMEND SECTION 59-40-230, RELATING TO THE BOARD OF TRUSTEES OF THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL, SO AS TO REVISE ITS MEMBERSHIP; AND TO AMEND SECTION 59-40-130, AS AMENDED, RELATING TO LEAVE TO BE EMPLOYED AT A CHARTER SCHOOL, SO AS TO PROVIDE THAT A CHARTER SCHOOL IS A COVERED EMPLOYER WITH RESPECT TO THE SOUTH CAROLINA RETIREMENT SYSTEMS FOR CERTAIN SCHOOL DISTRICT EMPLOYEES.

The Education and Public Works Committee proposed the following Amendment No. 1 (COUNCIL\AGM\18585BH11):

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Chapter 40, Title 59 of the 1976 Code is amended by adding:

“Section 59‑40‑55. (A) A charter school sponsor shall:

(1) approve charter applications that meet the requirements specified in Sections 59‑40‑50 and 59‑40‑60;

(2) decline to approve charter applications according to Section 59‑40‑70(C);

(3) negotiate and execute sound charter contracts with each approved charter school;

(4) monitor, in accordance with charter contract terms, the performance and legal/fiscal compliance of charter schools to include collecting and analyzing data to support ongoing evaluation according to the charter contract;

(5) conduct or require oversight activities that enable the sponsor to fulfill its responsibilities outlined in this chapter, including conducting appropriate inquiries and investigations, only if those activities are consistent with the intent of this chapter, adhere to the terms of the charter contact, and do not unduly inhibit the autonomy granted to public charter schools;

(6) collect, in accordance with Section 59‑40‑140(H), an annual report from each of its sponsored charter schools and submit the reports to the Department of Education;

(7) notify the charter school of perceived problems if its performance or legal compliance appears to be unsatisfactory and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation and revocation timeframes apply;

(8) take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in charter school performance or legal compliance. These actions or sanctions may include requiring a school to develop and execute a corrective action plan within a specified timeframe;

(9) determine whether each charter contract merits renewal, nonrenewal, or revocation; and

(10) provide to parents and the general public information about charter schools authorized by the district as an enrollment option within the district to the same extent and through the same means as the district provides and publicizes information about all public schools in the district. A charter school shall notify its sponsor of its enrollment procedures and dates of its enrollment period no less than sixty days prior to the first day of its enrollment period.

(B) The South Carolina Public Charter School District may retain no more than two percent of the total state appropriations for each charter school it authorizes to cover the costs for overseeing its charter schools. The sponsor’s administrative fee does not include costs incurred in delivering services that a charter school may purchase at its discretion from the sponsor. The sponsor’s fee is not applicable to federal money or grants received by the charter school. The sponsor shall use its funding provided pursuant to this section exclusively for the purpose of fulfilling sponsor obligations in accordance with this chapter.”

SECTION 2. Chapter 40, Title 59 of the 1976 Code is amended by adding:

“Section 59‑40‑175. There is created in the state treasury the Charter School Facility Revolving Loan Program. This loan program is comprised of federal funds obtained by the state for charter school facilities, other funds appropriated or transferred to the fund by the state, and privately donated funds. Funds deposited to the Charter School Facility Revolving Loan Program must remain available for the purposes of the program until appropriated or reverted by the General Assembly. The State Treasurer may approve loans from monies in the Charter School Revolving Loan Program to a charter school, upon application by the charter school. Money loaned to a charter school pursuant to this section must be used for construction, purchase, renovation, and maintenance of public charter school facilities. The State Treasurer shall establish guidelines and procedures for application, approval, allocation, and repayment regarding loans from these monies.”

SECTION 3. Chapter 40, Title 59 of the 1976 Code is amended by adding:

“Section 59‑40‑235. The geographical boundaries from which a charter school sponsored by a public or independent institution of higher learning may accept students are the same as the boundaries of the state of South Carolina.”

SECTION 4. Section 59‑40‑20 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑20. This chapter is enacted to:

(1) improve student learning;

(2) increase learning opportunities for students;

(3) encourage the use of a variety of productive teaching methods;

(4) establish new forms of accountability for schools;

(5) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; ~~and~~

(6) assist South Carolina in reaching academic excellence~~.~~; and

(7) create new, innovative, and more flexible ways of educating children within the public school system, with the goal of closing achievement gaps between low performing student groups and high performing student groups.”

SECTION 5. Section 59‑40‑40 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑40. As used in this chapter:

(1) A ‘charter school’ means a public, nonreligious, nonhome‑based, nonprofit corporation forming a school that operates ~~within~~ by sponsorship of a public school district ~~or~~, the South Carolina Public Charter School District, or a public or private institution of higher learning, but is accountable to the school board of trustees ~~of that district~~, or in the case of technical colleges, the area commission, of the sponsor which grants its charter. Nothing in this chapter prohibits charter schools from offering virtual services pursuant to state law and subsequent regulations defining virtual schools.

(2) A charter school:

(a) is, for purposes of state law and the state constitution, considered a public school and part of the South Carolina Public Charter School District ~~or~~, the local school district in which it is located ~~for the purposes of state law and the state constitution~~, or is sponsored by a public or independent institution of higher learning;

(b) is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services; however, an applicant may seek to form a single gender charter school without regard to the gender makeup of that proposed charter school;

(c) must be administered and governed by a governing body in a manner agreed to by the charter school applicant and the sponsor, the governing body to be selected~~,~~ as provided in Section 59‑40‑50(B)(9);

(d) may not charge tuition or other charges pursuant to Section 59‑19‑90(8) except as may be allowed by the sponsor and is comparable to the charges of the local school district in which the charter school is located~~.~~;

(e) is subject to the same fixed asset inventory requirements as are traditional public schools.

(3) ‘Applicant’ means the person who or nonprofit corporate entity that desires to form a charter school and files the necessary application with the South Carolina Public Charter School District Board of Trustees ~~or~~, the local school board of trustees in which the charter school is to be located, or the board of trustees or area commission of a public or independent institution of higher learning. The applicant also must be the person who or the nonprofit corporate entity that applies to the Secretary of State to organize the charter school as a nonprofit corporation.

(4) ‘Sponsor’ means the South Carolina Public Charter School District Board of Trustees ~~or~~, the local school board of trustees in which the charter school is to be located, as provided by law, a public institution of higher learning as defined in Section 59‑103‑5, or an independent institution of higher learning as defined in Section 59‑113‑50, from which the charter school applicant requested its charter and which granted approval for the charter school’s existence. The sponsor of a charter school is the charter school’s Local Education Agency (LEA) and a charter school is a school within that LEA. The sponsor retains responsibility for special education and shall ensure that students enrolled in its charter schools are served in a manner consistent with LEA obligations under applicable federal, state, and local law.

(5) ‘Certified teacher’ means a person currently certified by the State of South Carolina to teach in a public elementary or secondary school or who currently meets the qualifications outlined in Sections 59‑27‑10 and 59‑25‑115.

(6) ‘Noncertified teacher’ means an individual considered appropriately qualified for the subject matter taught and who has completed at least one year of study at an accredited college or university and meets the qualifications outlined in Section 59‑25‑115.

(7) ‘Charter committee’ means the governing body of a charter school formed by the applicant to govern through the application process and until the election of a board of directors is held. After the election, the board of directors of the corporation must be organized as the governing body and the charter committee is dissolved.

(8) ‘Local school district’ means any school district in the State except the South Carolina Public Charter School District and does not include special school districts.

(9) ‘Charter school contract’ means a fixed term, renewable contract between a charter school and a sponsor that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

(10) ‘Resident public school’ means the school, other than a charter school, within whose attendance boundaries the charter school student’s custodial parent or legal guardian resides.”

SECTION 6. Section 59‑40‑50 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑50. (A) Except as otherwise provided in this chapter, a charter school is exempt from all provisions of law and regulations applicable to a public school, a school board, or a district, although a charter school may elect to comply with one or more of these provisions of law or regulations.

(B) A charter school must:

(1) adhere to the same health, safety, civil rights, and disability rights requirements as are applied to public schools operating in the same school district or, in the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the local school district in which the charter school is located;

(2) meet, but may exceed, the same minimum student attendance requirements as are applied to public schools;

(3) adhere to the same financial audits, audit procedures, and audit requirements as are applied to public schools;

(4) be considered a school district for purposes of tort liability under South Carolina law, except that the tort immunity does not include acts of intentional or wilful racial discrimination by the governing body or employees of the charter school. Employees of charter schools must be relieved of personal liability for any tort or contract related to their school to the same extent that employees of traditional public schools in their school district or, in the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the local school district in which the charter school is located are relieved;

(5) in its discretion hire noncertified teachers in a ratio of up to twenty‑five percent of its entire teacher staff; however, if it is a converted charter school, it shall hire in its discretion noncertified teachers in a ratio of up to ten percent of its entire teacher staff. However, in either a new or converted charter school, a teacher teaching in the core academic areas as defined by the federal No Child Left Behind law must be certified in those areas or possess a baccalaureate or graduate degree in the subject he or she is hired to teach. Part‑time noncertified teachers are considered pro rata in calculating this percentage based on the hours which they are expected to teach;

(6) hire in its discretion administrative staff to oversee the daily operation of the school. At least one of the administrative staff must be certified or experienced in the field of school administration;

(7) admit all children eligible to attend public school to a charter school, subject to space limitations, except in the case of an application to create a single gender charter school. However, it is required that the racial composition of the charter school enrollment reflect that of the local school district in which the charter school is located or that of the targeted student population of the local school district that the charter school proposes to serve, to be defined for the purposes of this chapter as differing by no more than twenty percent from that population. This requirement is also subject to the provisions of Section 59‑40‑70(D). If the number of applications exceeds the capacity of a program, class, grade level, or building, students must be accepted by lot, and there is no appeal to the sponsor;

(8) not limit or deny admission or show preference in admission decisions to any individual or group of individuals, except in the case of an application to create a single gender charter school; ~~however,~~ A charter school may give enrollment priority to a sibling of a pupil ~~already~~ currently enrolled or previously enrolled~~,~~. A charter school also may give priority to children of a charter school employee~~,~~ and children of the charter committee, if ~~such~~ priority enrollment for children of employees and of the charter committee does not constitute more than twenty percent of the enrollment of the charter school;

(9) elect its board of directors ~~annually~~. At least one‑third of the board positions must be open for election annually, allowing for staggered terms of no more than three years. Board members may be reelected for consecutive terms as allowed by the charter school bylaws. All employees of the charter school and all parents or guardians of students enrolled in the charter school are eligible to participate in the election. Parents or guardians of a student shall have one vote for each student enrolled in the charter school. A person who has been convicted of a felony must not be elected to a board of directors;

(10) be subject to the Freedom of Information Act, including the charter school and its governing body. A board of directors of a charter school shall notify its sponsor of any regular meeting of the board at least forty‑eight hours prior to the date on which it is to occur.

(C)(1) If a charter school denies admission to a student, the student may appeal the denial to the sponsor. The decision is binding on the student and the charter school.

(2) If a charter school suspends or expels a student, other charter schools or the local school district in which the charter school is located has the authority but not the obligation to refuse admission to the student.

(3) ~~The sponsor has no obligation to provide extracurricular activities or access to facilities of the school district for students enrolled in the charter school; however, the charter contract may include participation in agreed upon interscholastic activities at a designated school within the sponsor district. Notwithstanding another provision of law, the local school district has no obligation to provide charter schools, sponsored by the South Carolina Public Charter School District, extracurricular activities or access to facilities of the school district for students enrolled in charter schools unless the school district, by contract, has agreed to provide activities or access. Students participating under this agreement must be considered eligible to participate in league events if other eligibility requirements are met.~~ (a) A charter school is eligible for federally sponsored, state‑sponsored or district‑sponsored interscholastic leagues, competitions, awards, scholarships, grants, and recognition programs for students, educators, administrators, staff, and schools to the same extent as all other public schools.

(b) A charter school student is eligible to compete for, and if selected, participate in extracurricular activities not offered by the student’s school at the resident public school.

(c) A charter school student is eligible for extracurricular activities at the student’s resident public school consistent with eligibility standards as applied to full‑time students of the resident public school.

(d) A school district or resident public school may not impose additional requirements on a charter school student to participate in extracurricular activities that are not imposed on full‑time students of the resident public school.

(e) Charter school students shall pay the same fees as other students to participate in extracurricular activities.

(f) Charter school students shall be eligible for the same fee waivers for which other students are eligible.

(D) The State is not responsible for student transportation to a charter school unless the charter school is designated by the local school district as the only school selected within the local school district’s attendance area. However, a charter school may enter into a contract with a school district or a private provider to provide transportation to the charter school students.

(E) The South Carolina Public Charter School District Board of Trustees may not use program funding for transportation.”

SECTION 7. Section 59‑40‑60 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑60. (A) An approved charter application constitutes an agreement~~, and the terms must be the terms of a contract~~ between the charter school and the sponsor.

(B) ~~The~~ A contract between the charter school and the sponsor ~~shall~~ must be executed and must reflect all provisions outlined in the application as well as the roles, powers, responsibilities, and performance expectations for each party to the contract. A contract must include the proposed enrollment procedures and dates of the enrollment period of the charter school. All agreements regarding the release of the charter school from school district policies must be contained in the contract. The Department of Education shall develop a contract template to be used by charter schools and the sponsor. The template must serve as a foundation for the development of a contract between the charter school and the sponsor.

(C) A material revision of the terms of the contract between the charter school and the sponsor may be made only with the approval of both parties.

(D) Except as provided in subsection (F), an applicant who wishes to form a charter school shall:

(1) organize the charter school as a nonprofit corporation pursuant to the laws of this State;

(2) form a charter committee for the charter school which includes one or more teachers;

(3) submit a written charter school application to the charter school advisory committee and to the school board of trustees or area commission from which the committee is seeking sponsorship.

(E) A charter committee is responsible for and has the power to:

(1) submit an application to operate as a charter school, sign a charter school contract, and ensure compliance with all of the requirements for charter schools provided by law;

(2) employ and contract with teachers and nonteaching employees, contract for services, and develop pay scales, performance criteria, and discharge policies for its employees. All teachers whether certified or noncertified must undergo the background checks and other investigations required for certified teachers, as provided by law, before they may teach in the charter school; and

(3) decide all other matters related to the operation of the charter school, including budgeting, curriculum, and operating procedures.

(F) The charter school application ~~shall be a proposed contract and~~ must include:

(1) the mission statement of the charter school, which must be consistent with the principles of the General Assembly’s purposes pursuant to Section 59‑40‑20;

(2) the goals, objectives, and pupil achievement standards to be achieved by the charter school, and a description of the charter school’s admission policies and procedures;

(3) evidence that an adequate number of parents, teachers, pupils, or any combination of them support the formation of a charter school;

(4) a description of the charter school’s educational program, pupil achievement standards, and curriculum which must meet or exceed any content standards adopted by the State Board of Education and the ~~chartering district~~ sponsor must be designed to enable each pupil to achieve these standards;

(5) a description of the charter school’s plan for evaluating pupil achievement and progress toward accomplishment of the school’s achievement standards in addition to state assessments, the timeline for meeting these standards, and the procedures for taking corrective action if that pupil achievement falls below the standards;

(6) evidence that the plan for the charter school is economically sound, a proposed budget for the term of the charter, a description of the manner in which an annual audit of the financial and administrative operations of the charter school, including any services provided by the ~~school district~~ sponsor, is to be conducted;

(7) a description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school;

(8) a description of how the charter school plans to ensure that the enrollment of the school is similar to the racial composition of the local school district in which the charter school is to be located or the targeted student population of the local school district that the charter school proposes to serve and provide assurance that the school does not conflict with any school district desegregation plan or order in effect for the school district in which the charter school is to be located;

(9) a description of how the charter school plans to meet the transportation needs of its pupils;

(10) a description of the building, facilities, and equipment and how they shall be obtained;

(11) an explanation of the relationship that shall exist between the proposed charter school and its employees, including descriptions of evaluation procedures and evidence that the terms and conditions of employment have been addressed with affected employees;

(12) a description of a reasonable grievance and termination procedure, as required by this chapter, including notice and a hearing before the governing body of the charter school. The application must state whether or not the provisions of Article 5, Chapter 25 ~~of~~, Title 59 apply to the employment and dismissal of teachers at the charter school;

(13) a description of student rights and responsibilities, including behavior and discipline standards, and a reasonable hearing procedure, including notice and a hearing before the board of directors of the charter school before expulsion;

(14) an assumption of liability by the charter school for the activities of the charter school and an agreement that the charter school must indemnify and hold harmless the ~~school district~~ sponsor, its servants, agents, and employees, from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from injury to persons or property or otherwise which arises out of the act, failure to act, or negligence of the charter school, its agents and employees, in connection with or arising out of the activity of the charter school; and

(15) a description of the types and amounts of insurance coverage to be obtained by the charter school.

(G) Nothing in this section shall require a charter school applicant to provide a list of prospective or tentatively enrolled students or prospective employees with the application.”

SECTION 8. Section 59‑40‑70 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑70. (A) The Charter School Advisory Committee must be established by the State Board of Education to review charter school applications for compliance with established standards that reflect the requirements and intent of this chapter. Members must be appointed by the State Board of Education unless otherwise indicated.

(1) The advisory committee shall consist of eleven members as follows:

(a) ~~South Carolina Association of Public Charter Schools, the president or his designee and one additional representative from the association;~~

~~(b)~~ South Carolina Association of School Administrators, the executive director or his designee;

~~(c)~~(b) South Carolina Chamber of Commerce, the executive director or his designee and one additional representative from the chamber;

~~(d)~~(c) South Carolina Education Oversight Committee, the chair or a business designee;

~~(e)~~(d) South Carolina Commission on Higher Education, the chair or his designee;

~~(f)~~(e) South Carolina School Boards Association, the executive director or his designee;

~~(g)~~(f) South Carolina Alliance of Black Educators, the president or his designee; ~~and~~

(~~h~~g) one teacher and one parent to be appointed by the State Superintendent of Education~~.~~; and

(h) one charter school principal and one charter school board member to be appointed by the Governor.

(2) As an application is reviewed, a representative from the board of trustees or area commission from which the committee is seeking sponsorship and a representative of the charter committee shall serve on the advisory committee as ex officio nonvoting members. If the applicant indicates a proposed contractual agreement with the local school district in which the charter school is located, a representative from the local school board of trustees of that district shall serve on the advisory committee as an ex officio, nonvoting member.

(3) Appointing authorities shall give consideration to the appointment of minorities and women as representatives on the committee.

(4) The committee shall establish bylaws for its operation that must include terms of office for its membership.

(5) An applicant shall submit the application to the advisory committee and one copy to the school board of trustees ~~of the district~~ or area commission from which it is seeking sponsorship. In the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the applicant shall provide notice of the application to the local school board of trustees in which the charter school will be located for informational purposes only. The advisory committee shall receive input from the school district ~~in~~ or the public or independent institution of higher learning from which the applicant is seeking sponsorship and shall request clarifying information from the applicant. An applicant may submit an application to the advisory committee ~~at any time during the fiscal year~~ pursuant to State Board of Education regulations and the advisory committee, within ~~sixty~~ ninety days, shall determine whether the application is in compliance. An application that is in compliance must be forwarded to the board or area commission of the school district or the public or independent institution of higher learning from which the applicant is seeking sponsorship with a letter stating the application is in compliance. The letter also shall include a recommendation from the Charter School Advisory Committee to approve or deny the charter. The letter must specify the reasons for its recommendation. This recommendation is nonbinding on the school board of trustees or area commission. If the application is in noncompliance, it must be returned to the applicant with deficiencies noted. The applicant may appeal the decision to the Administrative Law Court.

(B) The school board of trustees or area commission from which the applicant is seeking sponsorship shall rule on the application for a charter school in a public hearing, upon reasonable public notice, within ~~thirty~~ forty‑five days after receiving the application. If there is no ruling within ~~thirty~~ forty‑five days, the application is considered approved. Once the application has been approved by the school board of trustees or area commission, the charter school may open at the beginning of the following year. However, before a charter school may open, the State Department of Education shall verify the accuracy of the financial data for the school within forty‑five days after approval.

(C) A ~~school district~~ board of trustees ~~only~~ or area commission shall deny an application only if the application does not meet the requirements specified in Section 59‑40‑50 or 59‑40‑60, fails to meet the spirit and intent of this chapter, or adversely affects, as defined in regulation, the other students in the district in which the charter school is to be located. It shall provide, within ten days, a written explanation of the reasons for denial, citing specific standards related to provisions of Section 59‑40‑50 or 59‑40‑60 that the application violates. This written explanation immediately must be sent to the charter committee and filed with the State Board of Education and the Charter School Advisory Committee.

(D) In the event that the racial composition of an applicant’s or charter school’s enrollment differs from the enrollment of the local school district in which the charter school is to be located or the targeted student population of the local school district by more than twenty percent, despite its best efforts, the ~~school district~~ board of trustees or area commission from which the applicant is seeking sponsorship shall consider the applicant’s or the charter school’s recruitment efforts and racial composition of the applicant pool in determining whether the applicant or charter school is operating in a nondiscriminatory manner. A finding by the ~~school district~~ board of trustees or area commission that the applicant or charter school is operating in a racially discriminatory manner justifies the denial of a charter school application or the revocation of a charter as provided in this section or in Section 59‑40‑110, as may be applicable. A finding by the ~~school district~~ board of trustees or area commission that the applicant is not operating in a racially discriminatory manner justifies approval of the charter without regard to the racial percentage requirement if the application is acceptable in all other aspects.

(E) If the ~~school district~~ board of trustees or area commission from which the applicant is seeking sponsorship denies a charter school application, the charter applicant may appeal the denial to the Administrative Law Court pursuant to Section 59‑40‑90.

(F) If the ~~school district~~ board of trustees or area commission approves the application, it becomes the charter school’s sponsor and shall sign the approved application~~, which constitutes a contract with the charter committee of the charter school~~. The sponsor shall submit a copy of the charter ~~must be filed with~~ contract to the State Board of Education.

(G) If a local school board of trustees has information that an approved application by the South Carolina Public Charter School District or a public or independent institution of higher learning adversely affects the other students in its district, as defined in regulation, or that the approval of the application fails to meet the spirit and intent of this chapter, the local school board of trustees may appeal the granting of the charter to the Administrative Law Court. The Administrative Law Court, within forty‑five days, may affirm or reverse the application for action by the South Carolina Public Charter School District or the public or independent institution of higher learning in accordance with an order of the state board.”

SECTION 9. Section 59‑40‑100 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑100. (A) An existing public school may be converted into a charter school if two‑thirds of the faculty and instructional staff employed at the school and ~~two‑thirds~~ a majority of ~~all voting parents or legal guardians of students enrolled in the school~~ returned premailed ballots issued to those who are eligible to vote agree to the filing of an application with the local school board of trustees for the conversion and formation of that school into a charter school. Parents or legal guardians of students enrolled in the school must be given the opportunity to vote on the conversion. Parents or guardians of a student shall have one vote for each student enrolled in the school seeking conversion. The State Board of Education shall promulgate regulations providing for paper ballots to be used in the voting process. The application must be submitted pursuant to Section 59‑40‑70(A)(5) by the principal of that school or his designee who must be considered the applicant. The application must include all information required of other applications pursuant to this chapter. The local school board of trustees shall approve or disapprove this application in the same manner it approves or disapproves other applications. The existence of another charter granting authority must not be grounds for disapproving a school desiring to convert to a charter school.

(B) A converted charter school shall offer at least the same grades, or nongraded education appropriate for the same ages and education levels of pupils, as offered by the school immediately before conversion, and also may provide additional grades and further educational offerings.

(C) All students enrolled in the school at the time of conversion must be given priority enrollment. Thereafter, students who reside within the former attendance area of that public school must be given enrollment priority.

(D) All employees of a converted school shall remain employees of the local school district ~~or~~, the South Carolina Public Charter School District, or the public or independent institution of higher learning sponsor with the same compensation and benefits including any future increases. The converted charter school quarterly shall reimburse the local school district ~~or~~, the South Carolina Public Charter School District, or the public or independent institution of higher learning sponsor for the compensation and employer contribution benefits paid to or on behalf of these employees and also provide to the ~~school district~~ sponsor any reports, forms, or data necessary for maintaining retirement coverage and providing South Carolina Retirement Systems benefits to converted school employees. The provisions of Article 5, Chapter 25 ~~of~~, Title 59 apply to the employment and dismissal of teachers at a converted school.

(E) For the duration of a converted charter school’s contract with a sponsor, a converted charter school shall have the right to retain occupancy and use of the school’s facility or facilities and all equipment, furniture, and supplies that were available to the school before it converted, in the same manner as before the school converted, with no additional fees or charges.

~~(E)~~(F) The South Carolina Public Charter School District or a public or independent institution of higher learning may not sponsor a public school to convert to a charter school. However, the South Carolina Public Charter School District or a public or independent institution of higher learning may sponsor a converted charter school renewal if the charter school has not committed a material violation of the provisions specified in subsection (C) of Section 59‑40‑110 and the local school district board of trustees refuses to renew the charter. In such cases, the charter school shall continue to receive local funding pursuant to Section 59‑40‑110(A). However, the charter school is not eligible to receive one hundred percent of the base student cost from the State. The charter school only is eligible to receive the percentage of the base student cost previously received as a school in its former district.”

SECTION 10. Section 59‑40‑110 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑110. (A) A charter must be approved or renewed for a period of ten school years; however, the charter only may be revoked or not renewed under the provisions of subsection (C) of this section. The sponsor annually shall evaluate the conditions outlined in subsection (C). The annual evaluation results must be used in making a determination for nonrenewal or revocation.

(B) A charter renewal application must be submitted to the school’s sponsor, and it must contain:

(1) a report on the progress of the charter school in achieving the goals, objectives, pupil achievement standards, and other terms of the initially approved charter application; and

(2) a financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that allows comparison of these costs to other schools or other comparable organizations, in a format required by the State Board of Education.

(C) A charter ~~must~~ may be revoked or not renewed by the sponsor if it determines that the charter school:

(1) committed a material violation of the conditions, standards, or procedures provided for in the charter application;

(2) failed to meet or make reasonable progress, as defined in the charter application, toward pupil achievement standards identified in the charter application;

(3) failed to meet generally accepted standards of fiscal management; or

(4) violated any provision of law from which the charter school was not specifically exempted.

(D) At least sixty days before not renewing or terminating a charter school, the sponsor shall notify in writing the charter school’s governing body of the proposed action. The notification shall state the grounds for the proposed action in reasonable detail. Termination must follow the procedure provided for in this section.

(E) The existence of another charter granting authority must not be grounds for the nonrenewal or revocation of a charter. Grounds for nonrenewal or revocation must be only those specified in subsection (C) of this section.

(F) The charter school’s governing body may request in writing a hearing before the sponsor within fourteen days of receiving notice of nonrenewal or termination of the charter. Failure by the school’s governing body to make a written request for a hearing within fourteen days must be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponsor shall give reasonable notice to the school’s governing body of the hearing date. The sponsor shall conduct a hearing before taking final action. The sponsor shall take final action to renew or not renew a charter by the last day of classes in the last school year for which the charter school is authorized.

(G) A charter school seeking renewal may submit a renewal application to another charter granting authority if the charter school has not committed a material violation of the provisions specified in subsection (C) of this section and the ~~local school district board of trustees~~ sponsor refuses to renew the charter. In such cases, the charter school shall continue to receive local funding pursuant to Section 59‑40‑140(A). However, the charter school is not eligible to receive one hundred percent of the base student cost from the State. The charter school only is eligible to receive the percentage of the base student cost previously received as a school in its former district.

(H) A decision to revoke or not to renew a charter school may be appealed to the Administrative Law Court pursuant to the provisions of Section 59‑40‑90.”

SECTION 11. Section 59‑40‑140 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑140. (A) A local school board of trustees sponsor shall distribute state, county, and school district funds to a charter school as determined by the following formula: the previous year’s audited total general fund revenues, divided by the previous year’s weighted students, then increased by the Education Finance Act inflation factor, pursuant to Section 59‑20‑40, for the years following the audited expenditures, then multiplied by the weighted students enrolled in the charter school, which will be subject to adjustment for student attendance and state budget allocations based on the same criteria as the local school district. These amounts must be verified by the ~~State~~ Department of Education before the first disbursement of funds. All state and local funding must be distributed by the local school district to the charter school monthly beginning July first following approval of the charter school application and must continue to be disbursed to the charter school for the duration of its charter and for the duration of any subsequent renewals. After verification of student attendance on the fifth day of school at the beginning of each school year, the State Department of Education shall distribute funds to school districts with charter schools (i) having approved incremental growth and expansion as provided in their charter application, or (ii) for opening of new charter schools in the current fiscal year. These funds must be released to districts on behalf of their charter schools no later than fifteen days after receipt of verified enrollment. Districts shall provide this funding to eligible charters no later than thirty days after receipt from the Department of Education. Necessary adjustments due to enrollment changes must be made pursuant to the Education Finance Act.

(B)(1) The South Carolina Public Charter School District or a public or independent institution of higher learning sponsor shall receive and distribute state funds to the charter school as determined by the following formula~~:~~, based on the funds the child enrolled in the charter school would have generated were he enrolled in his resident public school as defined in Section 59‑40‑40(10): the current year’s base student cost, as funded by the General Assembly, multiplied by the weighted students enrolled in the charter school, which must be subject to adjustment for student attendance and state budget allocations. These state funds are in addition to other funds to be received and distributed by the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor pursuant to subsections (C) and (D) of this section and Section 59‑40‑220(A). ~~However, the South Carolina Public Charter School District may not retain more than two percent of its gross revenue for its internal administrative and operating expenses.~~ The South Carolina Public Charter School District or a public or independent institution of higher learning sponsor also shall receive and distribute local school district funds to the charter school equal to the total local appropriations each student enrolled in the charter school would have received were he enrolled in his resident public school as defined in Section 59‑40‑40(10).

(2) A local school district shall remit at least quarterly to the South Carolina Public Charter School District or to a public or independent institution of higher learning sponsor funds equal to the local funds that each student who resides within the local school district, but who is enrolled in a charter school sponsored by the South Carolina Public Charter School District or a public or independent institution of higher learning, would have received were he enrolled in his resident public school. If the local school district fails to remit these funds, the Department of Education may fine the district an amount equivalent to the withheld funds. Fines imposed must be remitted to the South Carolina Public Charter School District or the public or independent institution of higher learning sponsor and distributed to the charter school from which the amounts were withheld.

(3) Items (1) and (2) of this subsection do not apply to a virtual charter school sponsored by the South Carolina Public Charter School District or a public or independent institution of higher learning. The South Carolina Public Charter School District or a public or independent institution of higher learning sponsor shall receive and distribute seventy‑five percent of the total state appropriations as determined by the following formula, based on the funds the child enrolled in the virtual charter school would have generated were he enrolled in his resident public school as defined in Section 59‑40‑40(10): the current year’s base student cost, as funded by the General Assembly, multiplied by the weighted students enrolled in the charter school, which must be subject to adjustment for student attendance and state budget allocations. The South Carolina Public Charter School District or a public or independent institution of higher learning sponsor also shall receive and distribute seventy‑five percent of the total local appropriations each student enrolled in the virtual charter school would have received were he enrolled in his resident public school as defined in Section 59‑40‑40(10).

(4) A local school district shall remit at least quarterly to the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor funds equal to seventy‑five percent of the local funds that each student who resides in the local school district, but who is enrolled in a virtual charter school, would have received were he enrolled in his resident public school as defined in Section 59‑40‑40(10). If the local school district fails to remit these funds, the Department of Education may fine the district an amount equal to the withheld funds. Fines imposed must be remitted to the South Carolina Public Charter School District or the public or independent institution of higher learning sponsor and distributed to the charter school from which the amounts were withheld.

(C) During the year of the charter school’s operation, as received, and to the extent allowed by federal law, a sponsor shall distribute to the charter school federal funds which are allocated to the ~~school district~~ sponsor on the basis of the number of special characteristics of the students attending the charter school. These amounts must be verified by the State Department of Education before the first disbursement of funds.

(D) Notwithstanding subsection (C), the proportionate share of state and federal resources generated by students ~~with disabilities~~ or staff serving them must be directed to the ~~school district board of trustees~~ sponsor. ~~The proportionate share of funds generated under other federal or state categorical aid programs must be directed to the school district board of trustees serving students eligible for the aid pursuant to state and federal law.~~ After receipt of federal or state categorical aid funds, sponsors shall, within ten business days, supply to the charter school the proportional share of each categorical fund for which the charter school qualifies. If the sponsor fails to do so, the Department of Education may fine the sponsor an amount equivalent to the withheld amounts. Fines imposed must be remitted to the charter school from which the amounts were withheld.

(E) All services centrally or otherwise provided by the sponsor ~~or local school district, if any,~~ including, but not limited to, food services, custodial services, maintenance, curriculum, media services, libraries, and warehousing are subject to negotiation between a charter school and the sponsor ~~or local school district~~ and must be outlined in the contract required pursuant to Section 59‑40‑70(F).

(F) All awards, grants, or gifts collected by a charter school must be retained by the charter school.

(G) The governing body of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to expend or use the gifts, donations, or grants in accordance with the conditions prescribed by the donor. A gift or donation must not be required for admission. However, a gift, donation, or grant must not be accepted by the governing board if subject to a condition contrary to law or contrary to the terms of the contract between the charter school and the governing body. All gifts, donations, or grants must be reported to the sponsor in their annual audit report as required in Section 59‑40‑50(B)(3).

(H) A charter school shall report to its sponsor and the Department of Education any change to information provided under its application. In addition, a charter school shall report at least annually to its sponsor and the sponsor shall compile those reports into a single document which must be submitted to the department. The Department of Education shall develop a template to be used by charter schools for this annual report. The report shall provide all information required by the sponsor or the department and shall include ~~including~~, at a minimum~~,~~:

(1) the number of students enrolled in the charter school from year to year;

(2) the success of students in achieving the specific educational goals for which the charter school was established;

(3) an analysis of achievement gaps among major groupings of students in both proficiency and growth; ~~and~~

(4) the identity and certification status of the teaching staff;

(5) the financial performance and sustainability of the sponsor’s charter schools; and

(6) board performance and stewardship including compliance with applicable laws.

(I) The sponsor shall provide technical assistance to persons and groups preparing or revising charter applications at no expense.

(J) Charter schools may acquire by gift, devise, purchase, lease, sublease, installment purchase agreement, land contract, option, or by any other means, and hold and own in its own name buildings or other property for school purposes and interests in it which are necessary or convenient to fulfill its purposes.

(K) Charter schools are exempt from all state and local taxation, except the sales tax, on their earnings and property. Instruments of conveyance to or from a charter school are exempt from all types of taxation of local or state taxes and transfer fees.”

SECTION 12. Section 59‑40‑190(C) of the 1976 Code is amended to read:

“(C) A local school district, sponsor, members of the board or area commission of a sponsor, and employees of a sponsor acting in their official capacity are immune from civil or criminal liability with respect to all activities related to a charter school they sponsor. The governing body of a charter school shall obtain at least the amount of and types of insurance required for this purpose.”

SECTION 13. Section 59‑40‑230(A) of the 1976 Code, as added by Act 274 of 2006, is amended to read:

“(A) The South Carolina Public Charter School District must be governed by a board of trustees consisting of not more than ~~eleven~~ nine members:

(1) two appointed by the Governor;

(2) one appointed by the Speaker of the House of Representatives;

(3) one appointed by the President *Pro Tempore* of the Senate; and

(4) ~~seven~~ five to be appointed by the Governor upon the recommendation of the:

(a) ~~South Carolina Association of Public Charter Schools and one additional representative from the association;~~

~~(b)~~ South Carolina Association of School Administrators;

~~(c)~~(b) South Carolina Chamber of Commerce;

~~(d)~~(c) South Carolina Education Oversight Committee;

~~(e)~~(d) South Carolina School Boards Association; and

~~(f)~~(e) South Carolina Alliance of Black Educators.

The ~~nine~~ seven members appointed by the Governor pursuant to this subsection are subject to advice and consent of the Senate. Membership of the committee must reflect representatives from each of the entities in item (A)(4) or their designee as reflected in their recommendation.

Each member of the board of trustees shall serve terms of three years, except that, for the initial members, two appointed by the Governor, one by the Speaker of the House, and one by the President *Pro Tempore* of the Senate, shall serve terms of one year and three appointed by the Governor shall serve terms of two years. A member of the board may be removed after appointment pursuant to Section 1‑3‑240. In making appointments, every effort must be made to ensure that all geographic areas of the State are represented and that the membership reflects urban and rural areas of the State as well as the ethnic diversity of the State.”

SECTION 14. Section 59‑40‑130(A) of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“(A)(1) If an employee of a local school district makes a written request for leave to be employed at a charter school before July 1, 2006, the school district shall grant the leave for up to five years as requested by the employee. The school district may require that the request for leave or extension of leave be made by the date provided for by state law for the return of teachers’ contracts. Employees may return to employment with the local school district at its option with the same teaching or administrative contract status as when they left but without assurance as to the school or supplemental position to which they may be assigned.

(2) Notwithstanding the provisions of item (1) of this subsection and subject to the provisions of subsection (B) of this section, a charter school employing after June 30, 2006, an individual on leave from a local school district shall participate in the South Carolina Retirement Systems as a covered employer with respect to that employee on leave through the earlier of the date the employee on leave returns to employment by the district or June 30, 2011, and only if the charter school and the employee have made required employer and employee contributions to the South Carolina Retirement Systems from the employee’s date of employment with the charter school.”

SECTION 15. Section 59-40-220(A) of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“(A) The South Carolina Public Charter School District may not have a local tax base and may not receive local property taxes. This prohibition does not extend to local funds received by the district on behalf of sponsored charter schools pursuant to Section 59-40-140(B).”

SECTION 16. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Rep. OWENS moved to adjourn debate on the amendment, which was agreed to.

Rep. WHITMIRE proposed the following Amendment No. 3 (COUNCIL\AGM\18718BH11):

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Chapter 40, Title 59 of the 1976 Code is amended by adding:

“Section 59‑40‑55. (A) A charter school sponsor shall:

(1) approve charter applications that meet the requirements specified in Sections 59‑40‑50 and 59‑40‑60;

(2) decline to approve charter applications according to Section 59‑40‑70(C);

(3) negotiate and execute sound charter contracts with each approved charter school;

(4) monitor, in accordance with charter contract terms, the performance and legal/fiscal compliance of charter schools to include collecting and analyzing data to support ongoing evaluation according to the charter contract;

(5) conduct or require oversight activities that enable the sponsor to fulfill its responsibilities outlined in this chapter, including conducting appropriate inquiries and investigations, only if those activities are consistent with the intent of this chapter, adhere to the terms of the charter contact, and do not unduly inhibit the autonomy granted to public charter schools;

(6) collect, in accordance with Section 59‑40‑140(H), an annual report from each of its sponsored charter schools and submit the reports to the Department of Education;

(7) notify the charter school of perceived problems if its performance or legal compliance appears to be unsatisfactory and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation and revocation timeframes apply;

(8) take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in charter school performance or legal compliance. These actions or sanctions may include requiring a school to develop and execute a corrective action plan within a specified timeframe;

(9) determine whether each charter contract merits renewal, nonrenewal, or revocation; and

(10) provide to parents and the general public information about charter schools authorized by the sponsor as an enrollment option within the district in which the charter school is located to the same extent and through the same means as the district in which the charter school is located provides and publicizes information about all public schools in the district. A charter school shall notify its sponsor of its enrollment procedures and dates of its enrollment period no less than sixty days prior to the first day of its enrollment period.

(B) The South Carolina Public Charter School District may retain no more than two percent of the total state appropriations for each charter school it authorizes to cover the costs for overseeing its charter schools. The sponsor’s administrative fee does not include costs incurred in delivering services that a charter school may purchase at its discretion from the sponsor. The sponsor’s fee is not applicable to federal money or grants received by the charter school. The sponsor shall use its funding provided pursuant to this section exclusively for the purpose of fulfilling sponsor obligations in accordance with this chapter.”

SECTION 2. Chapter 40, Title 59 of the 1976 Code is amended by adding:

“Section 59‑40‑175. There is created in the state treasury the Charter School Facility Revolving Loan Program. This loan program is comprised of federal funds obtained by the state for charter school facilities, other funds appropriated or transferred to the fund by the state, and privately donated funds. Funds deposited to the Charter School Facility Revolving Loan Program must remain available for the purposes of the program until appropriated or reverted by the General Assembly. The State Treasurer may approve loans from monies in the Charter School Revolving Loan Program to a charter school, upon application by the charter school. Money loaned to a charter school pursuant to this section must be used for construction, purchase, renovation, and maintenance of public charter school facilities. The State Treasurer shall establish guidelines and procedures for application, approval, allocation, and repayment regarding loans from these monies. The Office of State Treasurer may be reimbursed from the program for costs associated with the administration of these loans.”

SECTION 3. Chapter 40, Title 59 of the 1976 Code is amended by adding:

“Section 59‑40‑235. The geographical boundaries from which a charter school sponsored by a public or independent institution of higher learning may accept students are the same as the boundaries of the state of South Carolina.”

SECTION 4. Section 59‑40‑20 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑20. This chapter is enacted to:

(1) improve student learning;

(2) increase learning opportunities for students;

(3) encourage the use of a variety of productive teaching methods;

(4) establish new forms of accountability for schools;

(5) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; ~~and~~

(6) assist South Carolina in reaching academic excellence~~.~~; and

(7) create new, innovative, and more flexible ways of educating children within the public school system, with the goal of closing achievement gaps between low performing student groups and high performing student groups.”

SECTION 5. Section 59‑40‑40 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑40. As used in this chapter:

(1) A ‘charter school’ means a public, nonreligious, nonhome‑based, nonprofit corporation forming a school that operates ~~within~~ by sponsorship of a public school district ~~or~~, the South Carolina Public Charter School District, or a public or independent institution of higher learning, but is accountable to the ~~school~~ board of trustees ~~of that district~~, or in the case of technical colleges, the area commission, of the sponsor which grants its charter. Nothing in this chapter prohibits charter schools from offering virtual services pursuant to state law and subsequent regulations defining virtual schools.

(2) A charter school:

(a) is, for purposes of state law and the state constitution, considered a public school and part of the South Carolina Public Charter School District ~~or~~, the local school district in which it is located ~~for the purposes of state law and the state constitution~~, or is sponsored by a public or independent institution of higher learning;

(b) is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services; however, an applicant may seek to form a single gender charter school without regard to the gender makeup of that proposed charter school;

(c) must be administered and governed by a governing body in a manner agreed to by the charter school applicant and the sponsor, the governing body to be selected~~,~~ as provided in Section 59‑40‑50(B)(9);

(d) may not charge tuition or other charges pursuant to Section 59‑19‑90(8) except as may be allowed by the sponsor and is comparable to the charges of the local school district in which the charter school is located~~.~~;

(e) is subject to the same fixed asset inventory requirements as are traditional public schools.

(3) ‘Applicant’ means the person who or nonprofit corporate entity that desires to form a charter school and files the necessary application with the South Carolina Public Charter School District Board of Trustees ~~or~~, the local school board of trustees in which the charter school is to be located, or the board of trustees or area commission of a public or independent institution of higher learning. The applicant also must be the person who or the nonprofit corporate entity that applies to the Secretary of State to organize the charter school as a nonprofit corporation.

(4) ‘Sponsor’ means the South Carolina Public Charter School District Board of Trustees ~~or~~, the local school board of trustees in which the charter school is to be located, as provided by law, a public institution of higher learning as defined in Section 59‑103‑5, or an independent institution of higher learning as defined in Section 59‑113‑50, from which the charter school applicant requested its charter and which granted approval for the charter school’s existence. Only those public or independent institutions of higher learning, as defined in this subsection, who register with the South Carolina Department of Education may serve as charter school sponsors, and the department shall maintain a directory of those institutions. The sponsor of a charter school is the charter school’s Local Education Agency (LEA) and a charter school is a school within that LEA. The sponsor retains responsibility for special education and shall ensure that students enrolled in its charter schools are served in a manner consistent with LEA obligations under applicable federal, state, and local law.

(5) ‘Certified teacher’ means a person currently certified by the State of South Carolina to teach in a public elementary or secondary school or who currently meets the qualifications outlined in Sections 59‑27‑10 and 59‑25‑115.

(6) ‘Noncertified teacher’ means an individual considered appropriately qualified for the subject matter taught and who has completed at least one year of study at an accredited college or university and meets the qualifications outlined in Section 59‑25‑115.

(7) ‘Charter committee’ means the governing body of a charter school formed by the applicant to govern through the application process and until the election of a board of directors is held. After the election, the board of directors of the corporation must be organized as the governing body and the charter committee is dissolved.

(8) ‘Local school district’ means any school district in the State except the South Carolina Public Charter School District and does not include special school districts.

(9) ‘Charter school contract’ means a fixed term, renewable contract between a charter school and a sponsor that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

(10) ‘Resident public school’ means the school, other than a charter school, within whose attendance boundaries the charter school student’s custodial parent or legal guardian resides.”

SECTION 6. Section 59‑40‑50 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑50. (A) Except as otherwise provided in this chapter, a charter school is exempt from all provisions of law and regulations applicable to a public school, a school board, or a district, although a charter school may elect to comply with one or more of these provisions of law or regulations.

(B) A charter school must:

(1) adhere to the same health, safety, civil rights, and disability rights requirements as are applied to public schools operating in the same school district or, in the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the local school district in which the charter school is located;

(2) meet, but may exceed, the same minimum student attendance requirements as are applied to public schools;

(3) adhere to the same financial audits, audit procedures, and audit requirements as are applied to public schools;

(4) be considered a school district for purposes of tort liability under South Carolina law, except that the tort immunity does not include acts of intentional or wilful racial discrimination by the governing body or employees of the charter school. Employees of charter schools must be relieved of personal liability for any tort or contract related to their school to the same extent that employees of traditional public schools in their school district or, in the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the local school district in which the charter school is located are relieved;

(5) in its discretion hire noncertified teachers in a ratio of up to twenty‑five percent of its entire teacher staff; however, if it is a converted charter school, it shall hire in its discretion noncertified teachers in a ratio of up to ten percent of its entire teacher staff. However, in either a new or converted charter school, a teacher teaching in the core academic areas as defined by the federal No Child Left Behind law must be certified in those areas or possess a baccalaureate or graduate degree in the subject he or she is hired to teach. Part‑time noncertified teachers are considered pro rata in calculating this percentage based on the hours which they are expected to teach;

(6) hire in its discretion administrative staff to oversee the daily operation of the school. At least one of the administrative staff must be certified or experienced in the field of school administration;

(7) admit all children eligible to attend public school to a charter school, subject to space limitations, except in the case of an application to create a single gender charter school. However, it is required that the racial composition of the charter school enrollment reflect that of the local school district in which the charter school is located or that of the targeted student population of the local school district that the charter school proposes to serve, to be defined for the purposes of this chapter as differing by no more than twenty percent from that population. This requirement is also subject to the provisions of Section 59‑40‑70(D). If the number of applications exceeds the capacity of a program, class, grade level, or building, students must be accepted by lot, and there is no appeal to the sponsor;

(8) not limit or deny admission or show preference in admission decisions to any individual or group of individuals, except in the case of an application to create a single gender charter school; ~~however,~~ A charter school may give enrollment priority to a sibling of a pupil ~~already~~ currently enrolled or previously enrolled~~,~~. A charter school also may give priority to children of a charter school employee~~,~~ and children of the charter committee, if ~~such~~ priority enrollment for children of employees and of the charter committee does not constitute more than twenty percent of the enrollment of the charter school;

(9) elect its board of directors ~~annually~~. At least one‑third of the board positions must be open for election annually, allowing for staggered terms of no more than three years. Board members may be reelected for consecutive terms as allowed by the charter school bylaws. All employees of the charter school and all parents or guardians of students enrolled in the charter school are eligible to participate in the election. Parents or guardians of a student shall have one vote for each student enrolled in the charter school. A person who has been convicted of a felony must not be elected to a board of directors;

(10) be subject to the Freedom of Information Act, including the charter school and its governing body. A board of directors of a charter school shall notify its sponsor of any regular meeting of the board at least forty‑eight hours prior to the date on which it is to occur.

(C)(1) If a charter school denies admission to a student, the student may appeal the denial to the sponsor. The decision is binding on the student and the charter school.

(2) If a charter school suspends or expels a student, other charter schools or the local school district in which the charter school is located has the authority but not the obligation to refuse admission to the student.

(3) ~~The sponsor has no obligation to provide extracurricular activities or access to facilities of the school district for students enrolled in the charter school; however, the charter contract may include participation in agreed upon interscholastic activities at a designated school within the sponsor district. Notwithstanding another provision of law, the local school district has no obligation to provide charter schools, sponsored by the South Carolina Public Charter School District, extracurricular activities or access to facilities of the school district for students enrolled in charter schools unless the school district, by contract, has agreed to provide activities or access. Students participating under this agreement must be considered eligible to participate in league events if other eligibility requirements are met.~~

(a) A charter school is eligible for federally sponsored, state‑sponsored or district‑sponsored interscholastic leagues, competitions, awards, scholarships, grants, and recognition programs for students, educators, administrators, staff, and schools to the same extent as all other public schools.

(b) A charter school student is eligible to compete for, and if selected, participate in extracurricular activities not offered by the student’s school at the resident public school.

(c) A charter school student is eligible for extracurricular activities at the student’s resident public school consistent with eligibility standards as applied to full‑time students of the resident public school.

(d) A school district or resident public school may not impose additional requirements on a charter school student to participate in extracurricular activities that are not imposed on full‑time students of the resident public school.

(e) Charter school students shall pay the same fees as other students to participate in extracurricular activities.

(f) Charter school students shall be eligible for the same fee waivers for which other students are eligible.

(D) The State is not responsible for student transportation to a charter school unless the charter school is designated by the local school district as the only school selected within the local school district’s attendance area. However, a charter school may enter into a contract with a school district or a private provider to provide transportation to the charter school students.

(E) The South Carolina Public Charter School District Board of Trustees may not use program funding for transportation.”

SECTION 7. Section 59‑40‑60 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑60. (A) An approved charter application constitutes an agreement~~, and the terms must be the terms of a contract~~ between the charter school and the sponsor.

(B) ~~The~~ A contract between the charter school and the sponsor ~~shall~~ must be executed and must reflect all provisions outlined in the application as well as the roles, powers, responsibilities, and performance expectations for each party to the contract. A contract must include the proposed enrollment procedures and dates of the enrollment period of the charter school. All agreements regarding the release of the charter school from school district policies must be contained in the contract. The Department of Education shall develop a contract template to be used by charter schools and the sponsor. The template must serve as a foundation for the development of a contract between the charter school and the sponsor.

(C) A material revision of the terms of the contract between the charter school and the sponsor may be made only with the approval of both parties.

(D) Except as provided in subsection (F), an applicant who wishes to form a charter school shall:

(1) organize the charter school as a nonprofit corporation pursuant to the laws of this State;

(2) form a charter committee for the charter school which includes one or more teachers;

(3) submit a written charter school application to the charter school advisory committee and to the ~~school~~ board of trustees or area commission from which the committee is seeking sponsorship.

(E) A charter committee is responsible for and has the power to:

(1) submit an application to operate as a charter school, sign a charter school contract, and ensure compliance with all of the requirements for charter schools provided by law;

(2) employ and contract with teachers and nonteaching employees, contract for services, and develop pay scales, performance criteria, and discharge policies for its employees. All teachers whether certified or noncertified must undergo the background checks and other investigations required for certified teachers, as provided by law, before they may teach in the charter school; and

(3) decide all other matters related to the operation of the charter school, including budgeting, curriculum, and operating procedures.

(F) The charter school application ~~shall be a proposed contract and~~ must include:

(1) the mission statement of the charter school, which must be consistent with the principles of the General Assembly’s purposes pursuant to Section 59‑40‑20;

(2) the goals, objectives, and pupil achievement standards to be achieved by the charter school, and a description of the charter school’s admission policies and procedures;

(3) evidence that an adequate number of parents, teachers, pupils, or any combination of them support the formation of a charter school;

(4) a description of the charter school’s educational program, pupil achievement standards, and curriculum which must meet or exceed any content standards adopted by the State Board of Education and the ~~chartering district~~ sponsor must be designed to enable each pupil to achieve these standards;

(5) a description of the charter school’s plan for evaluating pupil achievement and progress toward accomplishment of the school’s achievement standards in addition to state assessments, the timeline for meeting these standards, and the procedures for taking corrective action if that pupil achievement falls below the standards;

(6) evidence that the plan for the charter school is economically sound, a proposed budget for the term of the charter, a description of the manner in which an annual audit of the financial and administrative operations of the charter school, including any services provided by the ~~school district~~ sponsor, is to be conducted;

(7) a description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school;

(8) a description of how the charter school plans to ensure that the enrollment of the school is similar to the racial composition of the local school district in which the charter school is to be located or the targeted student population of the local school district that the charter school proposes to serve and provide assurance that the school does not conflict with any school district desegregation plan or order in effect for the school district in which the charter school is to be located;

(9) a description of how the charter school plans to meet the transportation needs of its pupils;

(10) a description of the building, facilities, and equipment and how they shall be obtained;

(11) an explanation of the relationship that shall exist between the proposed charter school and its employees, including descriptions of evaluation procedures and evidence that the terms and conditions of employment have been addressed with affected employees;

(12) a description of a reasonable grievance and termination procedure, as required by this chapter, including notice and a hearing before the governing body of the charter school. The application must state whether or not the provisions of Article 5, Chapter 25 ~~of~~, Title 59 apply to the employment and dismissal of teachers at the charter school;

(13) a description of student rights and responsibilities, including behavior and discipline standards, and a reasonable hearing procedure, including notice and a hearing before the board of directors of the charter school before expulsion;

(14) an assumption of liability by the charter school for the activities of the charter school and an agreement that the charter school must indemnify and hold harmless the ~~school district~~ sponsor, its servants, agents, and employees, from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from injury to persons or property or otherwise which arises out of the act, failure to act, or negligence of the charter school, its agents and employees, in connection with or arising out of the activity of the charter school; and

(15) a description of the types and amounts of insurance coverage to be obtained by the charter school.

(G) Nothing in this section shall require a charter school applicant to provide a list of prospective or tentatively enrolled students or prospective employees with the application.”

SECTION 8. Section 59‑40‑70 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑70. (A) The Charter School Advisory Committee must be established by the State Board of Education to review charter school applications for compliance with established standards that reflect the requirements and intent of this chapter. Members must be appointed by the State Board of Education unless otherwise indicated.

(1) The advisory committee shall consist of eleven members as follows:

(a) ~~South Carolina Association of Public Charter Schools, the president or his designee and one additional representative from the association;~~

~~(b)~~ South Carolina Association of School Administrators, the executive director or his designee;

~~(c)~~(b) South Carolina Chamber of Commerce, the executive director or his designee and one additional representative from the chamber;

~~(d)~~(c) South Carolina Education Oversight Committee, the chair or a business designee;

~~(e)~~(d) South Carolina Commission on Higher Education, the chair or his designee;

~~(f)~~(e) South Carolina School Boards Association, the executive director or his designee;

~~(g)~~(f) South Carolina Alliance of Black Educators, the president or his designee; ~~and~~

~~(h)~~(g) one teacher and one parent to be appointed by the State Superintendent of Education~~.~~; and

(h) one charter school principal and one charter school board member to be appointed by the Governor.

(2) As an application is reviewed, a representative from the board of trustees or area commission from which the committee is seeking sponsorship and a representative of the charter committee shall serve on the advisory committee as ex officio nonvoting members. If the applicant indicates a proposed contractual agreement with the local school district in which the charter school is located, a representative from the local school board of trustees of that district shall serve on the advisory committee as an ex officio, nonvoting member.

(3) Appointing authorities shall give consideration to the appointment of minorities and women as representatives on the committee.

(4) The committee shall establish bylaws for its operation that must include terms of office for its membership.

(5) An applicant shall submit the application to the advisory committee and one copy to the ~~school~~ board of trustees ~~of the district~~ or area commission from which it is seeking sponsorship. In the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the applicant shall provide notice of the application to the local school board of trustees in which the charter school will be located for informational purposes only. The advisory committee shall receive input from the school district ~~in~~ or the public or independent institution of higher learning from which the applicant is seeking sponsorship and shall request clarifying information from the applicant. An applicant may submit an application to the advisory committee ~~at any time during the fiscal year~~ pursuant to State Board of Education regulations and the advisory committee, within ~~sixty~~ ninety days, shall determine whether the application is in compliance. An application that is in compliance must be forwarded to the board or area commission of the school district or the public or independent institution of higher learning from which the applicant is seeking sponsorship with a letter stating the application is in compliance. The letter also shall include a recommendation from the Charter School Advisory Committee to approve or deny the charter. The letter must specify the reasons for its recommendation. This recommendation is nonbinding on the school board of trustees or area commission. If the application is in noncompliance, it must be returned to the applicant with deficiencies noted. The applicant may appeal the decision to the Administrative Law Court.

(B) The ~~school~~ board of trustees or area commission from which the applicant is seeking sponsorship shall rule on the application for a charter school in a public hearing, upon reasonable public notice, within ~~thirty~~ forty‑five days after receiving the application. If there is no ruling within ~~thirty~~ forty‑five days, the application is considered approved. Once the application has been approved by the ~~school~~ board of trustees or area commission, the charter school may open at the beginning of the following year. However, before a charter school may open, the State Department of Education shall verify the accuracy of the financial data for the school within forty‑five days after approval.

(C) A ~~school district~~ board of trustees ~~only~~ or area commission shall deny an application only if the application does not meet the requirements specified in Section 59‑40‑50 or 59‑40‑60, fails to meet the spirit and intent of this chapter, or adversely affects, as defined in regulation, the other students in the district in which the charter school is to be located. It shall provide, within ten days, a written explanation of the reasons for denial, citing specific standards related to provisions of Section 59‑40‑50 or 59‑40‑60 that the application violates. This written explanation immediately must be sent to the charter committee and filed with the State Board of Education and the Charter School Advisory Committee.

(D) In the event that the racial composition of an applicant’s or charter school’s enrollment differs from the enrollment of the local school district in which the charter school is to be located or the targeted student population of the local school district by more than twenty percent, despite its best efforts, the ~~school district~~ board of trustees or area commission from which the applicant is seeking sponsorship shall consider the applicant’s or the charter school’s recruitment efforts and racial composition of the applicant pool in determining whether the applicant or charter school is operating in a nondiscriminatory manner. A finding by the ~~school district~~ board of trustees or area commission that the applicant or charter school is operating in a racially discriminatory manner justifies the denial of a charter school application or the revocation of a charter as provided in this section or in Section 59‑40‑110, as may be applicable. A finding by the ~~school district~~ board of trustees or area commission that the applicant is not operating in a racially discriminatory manner justifies approval of the charter without regard to the racial percentage requirement if the application is acceptable in all other aspects.

(E) If the ~~school district~~ board of trustees or area commission from which the applicant is seeking sponsorship denies a charter school application, the charter applicant may appeal the denial to the Administrative Law Court pursuant to Section 59‑40‑90.

(F) If the ~~school district~~ board of trustees or area commission approves the application, it becomes the charter school’s sponsor and shall sign the approved application~~, which constitutes a contract with the charter committee of the charter school~~. The sponsor shall submit a copy of the charter ~~must be filed with~~ contract to the State Board of Education.

(G) If a local school board of trustees has information that an approved application by the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor adversely affects the other students in its district, as defined in regulation, or that the approval of the application fails to meet the spirit and intent of this chapter, the local school board of trustees may appeal the granting of the charter to the Administrative Law Court. The Administrative Law Court, within forty‑five days, may affirm or reverse the application for action by the South Carolina Public Charter School District or the public or independent institution of higher learning in accordance with an order of the state board.”

SECTION 9. Section 59‑40‑100 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑100. (A) An existing public school may be converted into a charter school if two‑thirds of the faculty and instructional staff employed at the school and ~~two‑thirds~~ a majority of ~~all voting parents or legal guardians of students enrolled in the school~~ returned premailed ballots issued to those who are eligible to vote agree to the filing of an application with the local school board of trustees for the conversion and formation of that school into a charter school. Parents or legal guardians of students enrolled in the school must be given the opportunity to vote on the conversion. Parents or guardians of a student shall have one vote for each student enrolled in the school seeking conversion. The State Board of Education shall promulgate regulations providing for paper ballots to be used in the voting process. The application must be submitted pursuant to Section 59‑40‑70(A)(5) by the principal of that school or his designee who must be considered the applicant. The application must include all information required of other applications pursuant to this chapter. The local school board of trustees shall approve or disapprove this application in the same manner it approves or disapproves other applications. The existence of another charter granting authority must not be grounds for disapproving a school desiring to convert to a charter school.

(B) A converted charter school shall offer at least the same grades, or nongraded education appropriate for the same ages and education levels of pupils, as offered by the school immediately before conversion, and also may provide additional grades and further educational offerings.

(C) All students enrolled in the school at the time of conversion must be given priority enrollment. Thereafter, students who reside within the former attendance area of that public school must be given enrollment priority.

(D) All employees of a converted school shall remain employees of the local school district ~~or~~, the South Carolina Public Charter School District, or the public or independent institution of higher learning sponsor with the same compensation and benefits including any future increases. The converted charter school quarterly shall reimburse the local school district ~~or~~, the South Carolina Public Charter School District, or the public or independent institution of higher learning sponsor for the compensation and employer contribution benefits paid to or on behalf of these employees and also provide to the ~~school district~~ sponsor any reports, forms, or data necessary for maintaining retirement coverage and providing South Carolina Retirement Systems benefits to converted school employees. The provisions of Article 5, Chapter 25 ~~of~~, Title 59 apply to the employment and dismissal of teachers at a converted school.

(E) For the duration of a converted charter school’s contract with a sponsor, a converted charter school shall have the right to retain occupancy and use of the school’s facility or facilities and all equipment, furniture, and supplies that were available to the school before it converted, in the same manner as before the school converted, with no additional fees or charges.

~~(E)~~(F) The South Carolina Public Charter School District or a public or independent institution of higher learning may not sponsor a public school to convert to a charter school. However, the South Carolina Public Charter School District or a public or independent institution of higher learning may sponsor a converted charter school renewal if the charter school has not committed a material violation of the provisions specified in subsection (C) of Section 59‑40‑110 and the local school district board of trustees refuses to renew the charter. In such cases, the charter school shall continue to receive local funding pursuant to Section 59‑40‑110(A). However, the charter school is not eligible to receive one hundred percent of the base student cost from the State. The charter school only is eligible to receive the percentage of the base student cost previously received as a school in its former district.”

SECTION 10. Section 59‑40‑110 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑110. (A) A charter must be approved or renewed for a period of ten school years; however, the charter only may be revoked or not renewed under the provisions of subsection (C) of this section. The sponsor annually shall evaluate the conditions outlined in subsection (C). The annual evaluation results must be used in making a determination for nonrenewal or revocation.

(B) A charter renewal application must be submitted to the school’s sponsor, and it must contain:

(1) a report on the progress of the charter school in achieving the goals, objectives, pupil achievement standards, and other terms of the initially approved charter application; and

(2) a financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that allows comparison of these costs to other schools or other comparable organizations, in a format required by the State Board of Education.

(C) A charter ~~must~~ may be revoked or not renewed by the sponsor if it determines that the charter school:

(1) committed a material violation of the conditions, standards, or procedures provided for in the charter application;

(2) failed to meet or make reasonable progress, as defined in the charter application, toward pupil achievement standards identified in the charter application;

(3) failed to meet generally accepted standards of fiscal management; or

(4) violated any provision of law from which the charter school was not specifically exempted.

(D) At least sixty days before not renewing or terminating a charter school, the sponsor shall notify in writing the charter school’s governing body of the proposed action. The notification shall state the grounds for the proposed action in reasonable detail. Termination must follow the procedure provided for in this section.

(E) The existence of another charter granting authority must not be grounds for the nonrenewal or revocation of a charter. Grounds for nonrenewal or revocation must be only those specified in subsection (C) of this section.

(F) The charter school’s governing body may request in writing a hearing before the sponsor within fourteen days of receiving notice of nonrenewal or termination of the charter. Failure by the school’s governing body to make a written request for a hearing within fourteen days must be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponsor shall give reasonable notice to the school’s governing body of the hearing date. The sponsor shall conduct a hearing before taking final action. The sponsor shall take final action to renew or not renew a charter by the last day of classes in the last school year for which the charter school is authorized.

(G) A charter school seeking renewal may submit a renewal application to another charter granting authority if the charter school has not committed a material violation of the provisions specified in subsection (C) of this section and the ~~local school district board of trustees~~ sponsor refuses to renew the charter. In such cases, the charter school shall continue to receive local funding pursuant to Section 59‑40‑140(A). However, the charter school is not eligible to receive one hundred percent of the base student cost from the State. The charter school only is eligible to receive the percentage of the base student cost previously received as a school in its former district.

(H) A decision to revoke or not to renew a charter school may be appealed to the Administrative Law Court pursuant to the provisions of Section 59‑40‑90.”

SECTION 11. Section 59‑40‑140 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑140. (A) A local school board of trustees sponsor shall distribute state, county, and school district funds to a charter school as determined by the following formula: the previous year’s audited total general fund revenues, divided by the previous year’s weighted students, then increased by the Education Finance Act inflation factor, pursuant to Section 59‑20‑40, for the years following the audited expenditures, then multiplied by the weighted students enrolled in the charter school, which will be subject to adjustment for student attendance and state budget allocations based on the same criteria as the local school district. These amounts must be verified by the ~~State~~ Department of Education before the first disbursement of funds. All state and local funding must be distributed by the local school district to the charter school monthly beginning July first following approval of the charter school application and must continue to be disbursed to the charter school for the duration of its charter and for the duration of any subsequent renewals. After verification of student attendance on the fifth day of school at the beginning of each school year, the State Department of Education shall distribute funds to school districts with charter schools (i) having approved incremental growth and expansion as provided in their charter application, or (ii) for opening of new charter schools in the current fiscal year. These funds must be released to districts on behalf of their charter schools no later than fifteen days after receipt of verified enrollment. Districts shall provide this funding to eligible charters no later than thirty days after receipt from the Department of Education. Necessary adjustments due to enrollment changes must be made pursuant to the Education Finance Act.

(B) ~~The South Carolina Public Charter School District shall receive and distribute state funds to the charter school as determined by the following formula: the current year’s base student cost, as funded by the General Assembly, multiplied by the weighted students enrolled in the charter school, which must be subject to adjustment for student attendance and state budget allocations. These state funds are in addition to other funds to be received and distributed by the South Carolina Public Charter School District pursuant to subsections (C) and (D) of this section and Section 59‑40‑220(A). However, the South Carolina Public Charter School District may not retain more than two percent of its gross revenue for its internal administrative and operating expenses~~ The South Carolina Public Charter School District or public or independent institution of higher learning sponsor shall receive and distribute state funds to the charter school as provided by the General Assembly.

(C) During the year of the charter school’s operation, as received, and to the extent allowed by federal law, a sponsor shall distribute to the charter school federal funds which are allocated to the ~~school district~~ sponsor on the basis of the number of special characteristics of the students attending the charter school. These amounts must be verified by the State Department of Education before the first disbursement of funds.

(D) Notwithstanding subsection (C), the proportionate share of state and federal resources generated by students ~~with disabilities~~ or staff serving them must be directed to the ~~school district board of trustees~~ sponsor. ~~The proportionate share of funds generated under other federal or state categorical aid programs must be directed to the school district board of trustees serving students eligible for the aid pursuant to state and federal law.~~ After receipt of federal or state categorical aid funds, sponsors shall, within ten business days, supply to the charter school the proportional share of each categorical fund for which the charter school qualifies. If the sponsor fails to do so, the Department of Education may fine the sponsor an amount equivalent to the withheld amounts. Fines imposed must be remitted to the charter school from which the amounts were withheld.

(E) All services centrally or otherwise provided by the sponsor ~~or local school district, if any,~~ including, but not limited to, food services, custodial services, maintenance, curriculum, media services, libraries, and warehousing are subject to negotiation between a charter school and the sponsor ~~or local school district~~ and must be outlined in the contract required pursuant to Section 59‑40‑70(F).

(F) All awards, grants, or gifts collected by a charter school must be retained by the charter school.

(G) The governing body of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to expend or use the gifts, donations, or grants in accordance with the conditions prescribed by the donor. A gift or donation must not be required for admission. However, a gift, donation, or grant must not be accepted by the governing board if subject to a condition contrary to law or contrary to the terms of the contract between the charter school and the governing body. All gifts, donations, or grants must be reported to the sponsor in their annual audit report as required in Section 59‑40‑50(B)(3).

(H) A charter school shall report to its sponsor and the Department of Education any change to information provided under its application. In addition, a charter school shall report at least annually to its sponsor and the sponsor shall compile those reports into a single document which must be submitted to the department. The Department of Education shall develop a template to be used by charter schools for this annual report. The report shall provide all information required by the sponsor or the department and shall include ~~including~~, at a minimum~~,~~:

(1) the number of students enrolled in the charter school from year to year;

(2) the success of students in achieving the specific educational goals for which the charter school was established;

(3) an analysis of achievement gaps among major groupings of students in both proficiency and growth; ~~and~~

(4) the identity and certification status of the teaching staff;

(5) the financial performance and sustainability of the sponsor’s charter schools; and

(6) board performance and stewardship including compliance with applicable laws.

(I) The sponsor shall provide technical assistance to persons and groups preparing or revising charter applications at no expense.

(J) Charter schools may acquire by gift, devise, purchase, lease, sublease, installment purchase agreement, land contract, option, or by any other means, and hold and own in its own name buildings or other property for school purposes and interests in it which are necessary or convenient to fulfill its purposes.

(K) Charter schools are exempt from all state and local taxation, except the sales tax, on their earnings and property. Instruments of conveyance to or from a charter school are exempt from all types of taxation of local or state taxes and transfer fees.”

SECTION 12. Section 59‑40‑190(C) of the 1976 Code is amended to read:

“(C) A local school district, sponsor, members of the board or area commission of a sponsor, and employees of a sponsor acting in their official capacity are immune from civil or criminal liability with respect to all activities related to a charter school they sponsor. The governing body of a charter school shall obtain at least the amount of and types of insurance required for this purpose.”

SECTION 13. Section 59‑40‑230(A) of the 1976 Code, as added by Act 274 of 2006, is amended to read:

“(A) The South Carolina Public Charter School District must be governed by a board of trustees consisting of not more than ~~eleven~~ nine members:

(1) two appointed by the Governor;

(2) one appointed by the Speaker of the House of Representatives;

(3) one appointed by the President *Pro Tempore* of the Senate; and

(4) ~~seven~~ five to be appointed by the Governor upon the recommendation of the:

(a) ~~South Carolina Association of Public Charter Schools and one additional representative from the association;~~

~~(b)~~ South Carolina Association of School Administrators;

~~(c)~~(b) South Carolina Chamber of Commerce;

~~(d)~~(c) South Carolina Education Oversight Committee;

~~(e)~~(d) South Carolina School Boards Association; and

~~(f)~~(e) South Carolina Alliance of Black Educators.

The ~~nine~~ seven members appointed by the Governor pursuant to this subsection are subject to advice and consent of the Senate. Membership of the committee must reflect representatives from each of the entities in item (A)(4) or their designee as reflected in their recommendation.

Each member of the board of trustees shall serve terms of three years, except that, for the initial members, two appointed by the Governor, one by the Speaker of the House, and one by the President *Pro Tempore* of the Senate, shall serve terms of one year and three appointed by the Governor shall serve terms of two years. A member of the board may be removed after appointment pursuant to Section 1‑3‑240. In making appointments, every effort must be made to ensure that all geographic areas of the State are represented and that the membership reflects urban and rural areas of the State as well as the ethnic diversity of the State.”

SECTION 14. Section 59‑40‑130(A) of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“(A)(1) If an employee of a local school district makes a written request for leave to be employed at a charter school before July 1, 2006, the school district shall grant the leave for up to five years as requested by the employee. The school district may require that the request for leave or extension of leave be made by the date provided for by state law for the return of teachers’ contracts. Employees may return to employment with the local school district at its option with the same teaching or administrative contract status as when they left but without assurance as to the school or supplemental position to which they may be assigned.

(2) Notwithstanding the provisions of item (1) of this subsection and subject to the provisions of subsection (B) of this section, a charter school employing after June 30, 2006, an individual on leave from a local school district shall participate in the South Carolina Retirement Systems as a covered employer with respect to that employee on leave through the earlier of the date the employee on leave returns to employment by the district or June 30, 2011, and only if the charter school and the employee have made required employer and employee contributions to the South Carolina Retirement Systems from the employee’s date of employment with the charter school.”

SECTION 15. Section 59‑40‑220(A) of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“(A) The South Carolina Public Charter School District may not have a local tax base and may not receive local property taxes. This prohibition does not extend to local funds received by the district on behalf of sponsored charter schools pursuant to Section 59‑40‑140(B).”

SECTION 16. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Rep. OWENS explained the amendment.

Rep. SKELTON spoke in favor of the amendment.

Rep. GOVAN spoke against the amendment.

Rep. GOVAN spoke against the amendment.

Further proceedings were interrupted by the Joint Assembly, the pending question being consideration of the amendment.

**JOINT ASSEMBLY**

At 12:00 noon the Senate appeared in the Hall of the House. The President of the Senate called the Joint Assembly to order and announced that it had convened under the terms of a Concurrent Resolution adopted by both Houses.

**ELECTION OF MEMBERS OF THE BOARDS OF TRUSTEES FOR THE CITADEL, COASTAL CAROLINA UNIVERSITY, SOUTH CAROLINA STATE UNIVERSITY, WIL LOU GRAY OPPORTUNITY SCHOOL, AND WINTHROP UNIVERSITY**

The Reading Clerk of the House read the following Concurrent Resolution:

S. 517 -- Senator Knotts: A CONCURRENT RESOLUTION TO FIX WEDNESDAY, FEBRUARY 23, 2011, AT NOON, AS THE DATE AND TIME FOR THE HOUSE OF REPRESENTATIVES AND THE SENATE TO MEET IN JOINT SESSION IN THE HALL OF THE HOUSE OF REPRESENTATIVES FOR THE PURPOSE OF ELECTING MEMBERS OF THE BOARDS OF TRUSTEES FOR THE CITADEL, COASTAL CAROLINA UNIVERSITY, SOUTH CAROLINA STATE UNIVERSITY, WIL LOU GRAY OPPORTUNITY SCHOOL, AND WINTHROP UNIVERSITY TO SUCCEED THOSE MEMBERS WHOSE TERMS EXPIRE IN 2011, OR WHOSE POSITIONS OTHERWISE MUST BE FILLED; AND TO ESTABLISH A PROCEDURE REGARDING NOMINATIONS AND SECONDING SPEECHES FOR THE CANDIDATES FOR THESE OFFICES DURING THE JOINT SESSION.

The PRESIDENT of the Senate recognized Sen. Knotts, Chairman of the Screening Committee for the State Colleges Boards and Universities Boards of Trustees.

**THE CITADEL**

AT-LARGE, ONE SEAT

The PRESIDENT announced that nominations were in order for the At-Large Seat.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Walter H. Cartin and Mr. Tee Hooper, Jr., had been screened, and found qualified.

Senator Knotts stated that Mr. Walter Cartin had withdrawn from the race, and placed the name of the remaining candidate, Mr. Tee Hooper, Jr., in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. Tee Hooper, Jr., was duly elected for the term prescribed by law.

**COASTAL CAROLINA UNIVERSITY**

FIRST CONGRESSIONAL DISTRICT, SEAT 1

The PRESIDENT announced that nominations were in order for the First Congressional District, Seat 1.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Ms. Natasha M. Hanna had been screened, found qualified, and placed her name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Ms. Natasha M. Hanna was duly elected for the term prescribed by law.

SECOND CONGRESSIONAL DISTRICT, SEAT 3

The PRESIDENT announced that nominations were in order for the Second Congressional District, Seat 3.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Dr. Oran P. Smith had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Dr. Oran P. Smith was duly elected for the term prescribed by law.

THIRD CONGRESSIONAL DISTRICT, SEAT 5

The PRESIDENT announced that nominations were in order for the Third Congressional District, Seat 5.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. William S. Biggs had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. William S. Biggs was duly elected for the term prescribed by law.

FOURTH CONGRESSIONAL DISTRICT, SEAT 7

The PRESIDENT announced that nominations were in order for the Fourth Congressional District, Seat 7.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Charles J. Hodge and Mr. Will Turner had been screened, found qualified, and placed their names in nomination.

The Reading Clerk of the Senate called the roll of the Senate, and the Senators voted *viva voce* as their names were called.

The following named Senators voted for Mr. Hodge:

|  |  |  |
| --- | --- | --- |
| Anderson | Coleman | Elliott |
| Hutto | Knotts | Land |
| Leatherman | Leventis | Lourie |
| Malloy | Matthews | McGill |
| O'Dell | Pinckney | Rankin |
| Reese | Ryberg | Setzler |
| Sheheen | Williams |  |

**Total--20**

The following named Senators voted for Mr. Turner:

|  |  |  |
| --- | --- | --- |
| Alexander | Bright | Bryant |
| Campbell | Campsen | Cleary |
| Courson | Cromer | Davis |
| Fair | Ford | Grooms |
| Hayes | Jackson | Martin, Larry |
| Martin, Shane | McConnell | Nicholson |
| Peeler | Rose | Scott |
| Shoopman | Thomas | Verdin |

**Total--24**

On motion of Sen. Knotts, with unanimous consent, the Members of the House voted by electronic roll call.

The following named Representatives voted for Mr. Hodge:

|  |  |  |
| --- | --- | --- |
| Alexander | Allen | Anderson |
| Anthony | Bannister | Bowers |
| Branham | Brannon | G. A. Brown |
| Clyburn | Cobb-Hunter | Cole |
| Cooper | Dillard | Forrester |
| Funderburk | Gambrell | Govan |
| Hart | Hayes | Hearn |
| Hodges | Hosey | Jefferson |
| King | Knight | Lucas |
| Mack | McLeod | Mitchell |
| D. C. Moss | V. S. Moss | Munnerlyn |
| J. H. Neal | J. M. Neal | Ott |
| Parker | Parks | Patrick |
| Pinson | Sabb | Sandifer |
| Stavrinakis | Tallon | Tribble |
| Weeks | Whipper | White |
| Williams |  |  |

**Total--49**

The following named Representatives voted for Mr. Turner:

|  |  |  |
| --- | --- | --- |
| Agnew | Bales | Ballentine |
| Barfield | Battle | Bikas |
| Bingham | Bowen | Brady |
| Brantley | H. B. Brown | R. L. Brown |
| Chumley | Clemmons | Corbin |
| Crawford | Crosby | Daning |
| Delleney | Edge | Erickson |
| Frye | Gilliard | Hamilton |
| Hardwick | Harrell | Henderson |
| Hiott | Hixon | Howard |
| Huggins | Loftis | Lowe |
| McCoy | McEachern | Merrill |
| Murphy | Nanney | Neilson |
| Norman | Owens | Pitts |
| Pope | Quinn | Rutherford |
| Ryan | Sellers | Simrill |
| Skelton | G. M. Smith | G. R. Smith |
| J. R. Smith | Sottile | Spires |
| Stringer | Taylor | Thayer |
| Toole | Vick | Viers |
| Whitmire | Willis | Young |

**Total--63**

**RECAPITULATION**

Total number of Senators voting 44

Total number of Representatives voting 112

Grand Total 156

Necessary to a choice 79

Of which Hodge received 69

Of which Turner received 87

Whereupon, the PRESIDENT announced that Mr. Will Turner was duly elected for the term prescribed by law.

FIFTH CONGRESSIONAL DISTRICT, SEAT 9

The PRESIDENT announced that nominations were in order for the Fifth Congressional District, Seat 9.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Dr. Samuel J. Swad had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Dr. Samuel J. Swad was duly elected for the term prescribed by law.

SIXTH CONGRESSIONAL DISTRICT, SEAT 11

The PRESIDENT announced that nominations were in order for the Sixth Congressional District, Seat 11.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Gary W. Brown had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. Gary W. Brown was duly elected for the term prescribed by law.

AT-LARGE DISTRICT, SEAT 13

The PRESIDENT announced that nominations were in order for the At-Large District, Seat 13.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Eugene C. Spivey had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. Eugene C. Spivey was duly elected for the term prescribed by law.

AT-LARGE DISTRICT, SEAT 15

The PRESIDENT announced that nominations were in order for the At-Large District, Seat 15.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Daniel W. R. Moore, Sr., had been screened, found qualified, and placed his name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Mr. Daniel W. R. Moore, Sr., was duly elected for the term prescribed by law.

**SOUTH CAROLINA STATE UNIVERSITY**

FIRST CONGRESSIONAL DISTRICT, SEAT 1

The PRESIDENT announced that nominations were in order for the Fifth Congressional District, Seat 1.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Dr. E. Gail Joyner-Fleming had been screened, found qualified, and placed her name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Dr. E. Gail Joyner Fleming was duly elected for the term prescribed by law.

SECOND CONGRESSIONAL DISTRICT, SEAT 2

The PRESIDENT announced that nominations were in order for the Second Congressional District, Seat 2.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Mr. Anthony Grant, Dr. Dennis Neilsen, and Dr. Marlon Thomas had been screened, found qualified, and placed their names in nomination.

The Reading Clerk of the Senate called the roll of the Senate, and the Senators voted *viva voce* as their names were called.

The following named Senators voted for Mr. Grant:

|  |  |  |
| --- | --- | --- |
| Alexander | Anderson | Bright |
| Coleman | Elliott | Hutto |
| Jackson | Land | Leventis |
| Lourie | Malloy | Matthews |
| McGill | Nicholson | O'Dell |
| Pinckney | Rankin | Reese |
| Scott | Setzler | Sheheen |
| Williams |  |  |

**Total--22**

The following named Senators voted for Dr. Nielsen:

|  |  |  |
| --- | --- | --- |
| Bryant | Campbell | Campsen |
| Cleary | Courson | Cromer |
| Davis | Fair | Ford |
| Grooms | Hayes | Leatherman |
| Martin, Larry | Martin, Shane | McConnell |
| Peeler | Rose | Ryberg |
| Shoopman | Thomas | Verdin |

**Total--21**

The following named Senators voted for Dr. Thomas:

**Total--0**

On motion of Sen. Knotts, with unanimous consent, the Members of the House voted by electronic roll call.

The following named Representatives voted for Mr. Grant:

|  |  |  |
| --- | --- | --- |
| Agnew | Alexander | Allen |
| Anderson | Anthony | Bales |
| Ballentine | Bannister | Battle |
| Bowers | Branham | Brannon |
| Brantley | G. A. Brown | H. B. Brown |
| R. L. Brown | Butler Garrick | Clemmons |
| Clyburn | Cobb-Hunter | Cooper |
| Dillard | Edge | Frye |
| Funderburk | Gambrell | Gilliard |
| Govan | Hardwick | Hart |
| Hayes | Hearn | Hixon |
| Hodges | Hosey | Howard |
| Huggins | Jefferson | King |
| Knight | Mack | McEachern |
| McLeod | Mitchell | D. C. Moss |
| V. S. Moss | Munnerlyn | J. H. Neal |
| J. M. Neal | Neilson | Norman |
| Ott | Parks | Pinson |
| Pope | Quinn | Rutherford |
| Sabb | Sellers | J. R. Smith |
| Spires | Stavrinakis | Taylor |
| Vick | Viers | Weeks |
| Whipper | White | Williams |
| Willis | Young |  |

**Total--71**

The following named Representatives voted for Dr. Nielsen:

|  |  |  |
| --- | --- | --- |
| Allison | Barfield | Bikas |
| Bingham | Bowen | Chumley |
| Cole | Corbin | Crawford |
| Crosby | Daning | Delleney |
| Erickson | Forrester | Hamilton |
| Harrell | Harrison | Henderson |
| Herbkersman | Hiott | Limehouse |
| Loftis | Lowe | Lucas |
| McCoy | Merrill | Murphy |
| Nanney | Owens | Parker |
| Patrick | Pitts | Ryan |
| Sandifer | Simrill | Skelton |
| G. M. Smith | G. R. Smith | Sottile |
| Tallon | Thayer | Toole |
| Tribble | Whitmire |  |

**Total--44**

The following named Representatives voted for Dr. Thomas:

**Total--0**

**RECAPITULATION**

Total number of Senators voting 43

Total number of Representatives voting 115

Grand Total 158

Necessary to a choice 80

Of which Grant received 94

Of which Neilsen received 64

Of which Thomas received 0

Whereupon, the PRESIDENT announced that Mr. Anthony Grant was duly elected for the term prescribed by law.

FOURTH CONGRESSIONAL DISTRICT, SEAT 4

The PRESIDENT announced that nominations were in order for the Fourth Congressional District, Seat 4.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Ms. Kathy E. Bell and Dr. John H. Corbitt had been screened, found qualified, and placed their names in nomination.

The Reading Clerk of the Senate called the roll of the Senate, and the Senators voted *viva voce* as their names were called.

The following named Senators voted for Ms. Bell:

|  |  |  |
| --- | --- | --- |
| Bright | Bryant | Campbell |
| Campsen | Cleary | Cromer |
| Ford | Grooms | Leventis |
| Malloy | Martin, Shane | McConnell |
| Peeler | Reese | Ryberg |

**Total--15**

The following named Senators voted for Dr. Corbitt:

|  |  |  |
| --- | --- | --- |
| Alexander | Anderson | Coleman |
| Courson | Elliott | Fair |
| Hayes | Hutto | Jackson |
| Knotts | Land | Leatherman |
| Lourie | Martin, Larry | Matthews |
| McGill | Nicholson | O'Dell |
| Pinckney | Rankin | Rose |
| Scott | Setzler | Sheheen |
| Shoopman | Thomas | Verdin |
| Williams |  |  |

**Total--28**

On motion of Sen. Knotts, with unanimous consent, the Members of the House voted by electronic roll call.

The following named Representatives voted for Ms. Bell:

|  |  |  |
| --- | --- | --- |
| Allison | Anthony | Bowers |
| Brannon | Chumley | Cobb-Hunter |
| Cole | Cooper | Crosby |
| Daning | Forrester | Frye |
| Gilliard | Harrell | Herbkersman |
| Howard | King | Knight |
| Limehouse | Mitchell | Murphy |
| Parker | Patrick | Quinn |
| Spires | Tallon |  |

**Total--26**

The following named Representatives voted for Dr. Corbitt:

|  |  |  |
| --- | --- | --- |
| Agnew | Alexander | Allen |
| Anderson | Bales | Ballentine |
| Bannister | Barfield | Battle |
| Bikas | Bingham | Bowen |
| Brady | Branham | Brantley |
| G. A. Brown | H. B. Brown | R. L. Brown |
| Butler Garrick | Clemmons | Clyburn |
| Corbin | Crawford | Delleney |
| Dillard | Edge | Erickson |
| Funderburk | Gambrell | Govan |
| Hamilton | Hardwick | Harrison |
| Hayes | Hiott | Hixon |
| Hodges | Hosey | Huggins |
| Jefferson | Loftis | Long |
| Lowe | Lucas | Mack |
| McCoy | McEachern | McLeod |
| Merrill | D. C. Moss | V. S. Moss |
| Munnerlyn | Nanney | J. H. Neal |
| J. M. Neal | Neilson | Norman |
| Ott | Owens | Pinson |
| Pitts | Pope | Rutherford |
| Ryan | Sabb | Sandifer |
| Sellers | Simrill | Skelton |
| G. M. Smith | G. R. Smith | J. R. Smith |
| Sottile | Stavrinakis | Stringer |
| Taylor | Thayer | Toole |
| Tribble | Vick | Weeks |
| Whipper | White | Whitmire |
| Williams | Willis | Young |

**Total--87**

**RECAPITULATION**

Total number of Senators voting 43

Total number of Representatives voting 113

Grand Total 156

Necessary to a choice 79

Of which Bell received 41

Of which Corbitt received 115

Whereupon, the PRESIDENT announced that Dr. John H. Corbitt was duly elected for the term prescribed by law.

**WIL LOU GRAY OPPORTUNITY SCHOOL**

THREE AT-LARGE SEATS

The PRESIDENT announced that nominations were in order for three At-Large Seats.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Dr. Earle Bennett, Ms. Sandra Dooley Parker, and Ms. Inease P. Williamson had been screened, found qualified, and placed their names in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominees.

Whereupon, the PRESIDENT announced that Dr. Earle Bennett, Ms. Sandra Dooley Parker, and Ms. Inease P. Williamson were duly elected for the term prescribed by law.

**WINTHROP UNIVERSITY**

ONE AT-LARGE SEAT

The PRESIDENT announced that nominations were in order for the At-Large Seat.

Senator Knotts, on behalf of the Joint Screening Committee, stated that Dr. Sue Smith-Rex had been screened, found qualified, and placed her name in nomination.

On motion of Senator Knotts, nominations were closed, and with unanimous consent, the vote was taken by acclamation, resulting in the election of the nominee.

Whereupon, the PRESIDENT announced that Dr. Sue Smith-Rex was duly elected for the term prescribed by law.

**JOINT ASSEMBLY RECEDES**

The purposes of the Joint Assembly having been accomplished, the PRESIDENT announced that under the terms of the Concurrent Resolution the Joint Assembly would recede from business.

The Senate accordingly retired to its Chamber.

**THE HOUSE RESUMES**

At 12:45 p.m. the House resumed, the SPEAKER in the Chair.

**H. 3241--AMENDED AND ORDERED TO THIRD READING**

Debate was resumed on the following Bill, the pending question being the consideration of amendments:

H. 3241 -- Reps. Owens, Stringer, G. R. Smith, Harrison, Daning, Hamilton, Bingham, Long, Henderson, Atwater, Lucas, Clemmons, Cooper, Horne, Simrill, D. C. Moss, Sandifer, Harrell, Erickson, Norman, Barfield and Loftis: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-40-55 SO AS TO PROVIDE CHARTER SCHOOL POWERS AND DUTIES AND TO ALLOW A SPONSOR TO RETAIN CERTAIN FUNDS FOR OVERSEEING THE CHARTER SCHOOL; BY ADDING SECTION 59-40-175 SO AS TO CREATE THE CHARTER SCHOOL FACILITY REVOLVING LOAN PROGRAM FOR THE CONSTRUCTION, PURCHASE, RENOVATION, AND MAINTENANCE OF PUBLIC CHARTER SCHOOL FACILITIES; TO AMEND SECTION 59-40-20, AS AMENDED, RELATING TO THE PURPOSE OF THE CHARTER SCHOOL ACT, SO AS TO INCLUDE AN ADDITIONAL PURPOSE; TO AMEND SECTION 59-40-40, AS AMENDED, RELATING TO DEFINITIONS, SO AS TO AMEND EXISTING DEFINITIONS AND ADD NEW DEFINITIONS; TO AMEND SECTION 59-40-50, AS AMENDED, RELATING TO CHARTER SCHOOL POWERS AND DUTIES, SO AS TO ALLOW FOR THE APPLICATION TO CREATE A SINGLE GENDER CHARTER SCHOOL, REVISE PRIORITY ENROLLMENT LIMITS, PROVIDE FOR THE ELECTION OF A CHARTER SCHOOL BOARD OF DIRECTORS, PROVIDE FOR BOARD MEETING NOTICE REQUIREMENTS, ALLOW A CHARTER SCHOOL TO CONTRACT WITH PROVIDERS FOR STUDENT TRANSPORTATION, AND ALLOW CHARTER SCHOOL STUDENTS TO PARTICIPATE IN CERTAIN EXTRACURRICULAR ACTIVITIES UNDER CERTAIN CONDITIONS; TO AMEND SECTION 59-40-60, AS AMENDED, RELATING TO APPLICATION TO CREATE A CHARTER SCHOOL, SO AS TO CLARIFY WHAT MUST BE INCLUDED IN THE CONTRACT, AND TO REQUIRE THE DEPARTMENT OF EDUCATION TO CREATE A CONTRACT TEMPLATE; TO AMEND SECTION 59-40-70, AS AMENDED, RELATING TO THE CHARTER SCHOOL ADVISORY COMMITTEE, SO AS TO REVISE ITS MEMBERSHIP AND TO EXTEND THE TIME PERIOD IN WHICH THE COMMITTEE SHALL DETERMINE APPLICATION COMPLIANCE AND THE TIME IN WHICH A LOCAL SCHOOL DISTRICT SHALL RULE ON THE APPLICATION; TO AMEND SECTION 59-40-100, AS AMENDED, RELATING TO CHARTER SCHOOL CONVERSION, SO AS TO REQUIRE THE STATE BOARD OF EDUCATION TO PROMULGATE REGULATIONS PROVIDING FOR PAPER BALLOTS, TO REVISE PRIORITY ENROLLMENT PROCEDURES FOR A CONVERTED CHARTER SCHOOL, AND TO ALLOW A CONVERTED CHARTER SCHOOL TO RETAIN FACILITIES AND EQUIPMENT AVAILABLE BEFORE CONVERSION; TO AMEND SECTION 59-40-110, AS AMENDED, RELATING TO THE DURATION OF A CHARTER, SO AS TO ALLOW A SPONSOR TO IMMEDIATELY REVOKE A CHARTER AND CLOSE THE SCHOOL UPON CERTAIN CONDITIONS; TO AMEND SECTION 59-40-140, AS AMENDED, RELATING TO DISTRIBUTION OF RESOURCES, SO AS TO PROVIDE FOR THE DISTRIBUTION OF FUNDS TO CHARTER SCHOOLS, TO REVISE WHAT THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL DISTRICT SHALL RECEIVE, TO ALLOW THE DEPARTMENT OF EDUCATION TO FINE SPONSORS THAT FAIL TO DISTRIBUTE CERTAIN FUNDS TO CHARTER SCHOOLS, AND TO REVISE REPORTING REQUIREMENTS; TO AMEND SECTION 59-40-190, AS AMENDED, RELATING TO LIABILITY OF A GOVERNING BODY OF A CHARTER SCHOOL, SO AS TO PROVIDE IMMUNITY TO A LOCAL SCHOOL DISTRICT FOR CRIMINAL OR CIVIL LIABILITY REGARDING ACTIVITIES RELATED TO A SPONSORED CHARTER SCHOOL; TO AMEND SECTION 59-40-230, RELATING TO THE BOARD OF TRUSTEES OF THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL, SO AS TO REVISE ITS MEMBERSHIP; AND TO AMEND SECTION 59-40-130, AS AMENDED, RELATING TO LEAVE TO BE EMPLOYED AT A CHARTER SCHOOL, SO AS TO PROVIDE THAT A CHARTER SCHOOL IS A COVERED EMPLOYER WITH RESPECT TO THE SOUTH CAROLINA RETIREMENT SYSTEMS FOR CERTAIN SCHOOL DISTRICT EMPLOYEES.

Rep. WHITMIRE proposed the following Amendment No. 3 (COUNCIL\AGM\18718BH11), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. Chapter 40, Title 59 of the 1976 Code is amended by adding:

“Section 59‑40‑55. (A) A charter school sponsor shall:

(1) approve charter applications that meet the requirements specified in Sections 59‑40‑50 and 59‑40‑60;

(2) decline to approve charter applications according to Section 59‑40‑70(C);

(3) negotiate and execute sound charter contracts with each approved charter school;

(4) monitor, in accordance with charter contract terms, the performance and legal/fiscal compliance of charter schools to include collecting and analyzing data to support ongoing evaluation according to the charter contract;

(5) conduct or require oversight activities that enable the sponsor to fulfill its responsibilities outlined in this chapter, including conducting appropriate inquiries and investigations, only if those activities are consistent with the intent of this chapter, adhere to the terms of the charter contact, and do not unduly inhibit the autonomy granted to public charter schools;

(6) collect, in accordance with Section 59‑40‑140(H), an annual report from each of its sponsored charter schools and submit the reports to the Department of Education;

(7) notify the charter school of perceived problems if its performance or legal compliance appears to be unsatisfactory and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation and revocation timeframes apply;

(8) take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in charter school performance or legal compliance. These actions or sanctions may include requiring a school to develop and execute a corrective action plan within a specified timeframe;

(9) determine whether each charter contract merits renewal, nonrenewal, or revocation; and

(10) provide to parents and the general public information about charter schools authorized by the sponsor as an enrollment option within the district in which the charter school is located to the same extent and through the same means as the district in which the charter school is located provides and publicizes information about all public schools in the district. A charter school shall notify its sponsor of its enrollment procedures and dates of its enrollment period no less than sixty days prior to the first day of its enrollment period.

(B) The South Carolina Public Charter School District may retain no more than two percent of the total state appropriations for each charter school it authorizes to cover the costs for overseeing its charter schools. The sponsor’s administrative fee does not include costs incurred in delivering services that a charter school may purchase at its discretion from the sponsor. The sponsor’s fee is not applicable to federal money or grants received by the charter school. The sponsor shall use its funding provided pursuant to this section exclusively for the purpose of fulfilling sponsor obligations in accordance with this chapter.”

SECTION 2. Chapter 40, Title 59 of the 1976 Code is amended by adding:

“Section 59‑40‑175. There is created in the state treasury the Charter School Facility Revolving Loan Program. This loan program is comprised of federal funds obtained by the state for charter school facilities, other funds appropriated or transferred to the fund by the state, and privately donated funds. Funds deposited to the Charter School Facility Revolving Loan Program must remain available for the purposes of the program until appropriated or reverted by the General Assembly. The State Treasurer may approve loans from monies in the Charter School Revolving Loan Program to a charter school, upon application by the charter school. Money loaned to a charter school pursuant to this section must be used for construction, purchase, renovation, and maintenance of public charter school facilities. The State Treasurer shall establish guidelines and procedures for application, approval, allocation, and repayment regarding loans from these monies. The Office of State Treasurer may be reimbursed from the program for costs associated with the administration of these loans.”

SECTION 3. Chapter 40, Title 59 of the 1976 Code is amended by adding:

“Section 59‑40‑235. The geographical boundaries from which a charter school sponsored by a public or independent institution of higher learning may accept students are the same as the boundaries of the state of South Carolina.”

SECTION 4. Section 59‑40‑20 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑20. This chapter is enacted to:

(1) improve student learning;

(2) increase learning opportunities for students;

(3) encourage the use of a variety of productive teaching methods;

(4) establish new forms of accountability for schools;

(5) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; ~~and~~

(6) assist South Carolina in reaching academic excellence~~.~~; and

(7) create new, innovative, and more flexible ways of educating children within the public school system, with the goal of closing achievement gaps between low performing student groups and high performing student groups.”

SECTION 5. Section 59‑40‑40 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑40. As used in this chapter:

(1) A ‘charter school’ means a public, nonreligious, nonhome‑based, nonprofit corporation forming a school that operates ~~within~~ by sponsorship of a public school district ~~or~~, the South Carolina Public Charter School District, or a public or independent institution of higher learning, but is accountable to the ~~school~~ board of trustees ~~of that district~~, or in the case of technical colleges, the area commission, of the sponsor which grants its charter. Nothing in this chapter prohibits charter schools from offering virtual services pursuant to state law and subsequent regulations defining virtual schools.

(2) A charter school:

(a) is, for purposes of state law and the state constitution, considered a public school and part of the South Carolina Public Charter School District ~~or~~, the local school district in which it is located ~~for the purposes of state law and the state constitution~~, or is sponsored by a public or independent institution of higher learning;

(b) is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services; however, an applicant may seek to form a single gender charter school without regard to the gender makeup of that proposed charter school;

(c) must be administered and governed by a governing body in a manner agreed to by the charter school applicant and the sponsor, the governing body to be selected~~,~~ as provided in Section 59‑40‑50(B)(9);

(d) may not charge tuition or other charges pursuant to Section 59‑19‑90(8) except as may be allowed by the sponsor and is comparable to the charges of the local school district in which the charter school is located~~.~~;

(e) is subject to the same fixed asset inventory requirements as are traditional public schools.

(3) ‘Applicant’ means the person who or nonprofit corporate entity that desires to form a charter school and files the necessary application with the South Carolina Public Charter School District Board of Trustees ~~or~~, the local school board of trustees in which the charter school is to be located, or the board of trustees or area commission of a public or independent institution of higher learning. The applicant also must be the person who or the nonprofit corporate entity that applies to the Secretary of State to organize the charter school as a nonprofit corporation.

(4) ‘Sponsor’ means the South Carolina Public Charter School District Board of Trustees ~~or~~, the local school board of trustees in which the charter school is to be located, as provided by law, a public institution of higher learning as defined in Section 59‑103‑5, or an independent institution of higher learning as defined in Section 59‑113‑50, from which the charter school applicant requested its charter and which granted approval for the charter school’s existence. Only those public or independent institutions of higher learning, as defined in this subsection, who register with the South Carolina Department of Education may serve as charter school sponsors, and the department shall maintain a directory of those institutions. The sponsor of a charter school is the charter school’s Local Education Agency (LEA) and a charter school is a school within that LEA. The sponsor retains responsibility for special education and shall ensure that students enrolled in its charter schools are served in a manner consistent with LEA obligations under applicable federal, state, and local law.

(5) ‘Certified teacher’ means a person currently certified by the State of South Carolina to teach in a public elementary or secondary school or who currently meets the qualifications outlined in Sections 59‑27‑10 and 59‑25‑115.

(6) ‘Noncertified teacher’ means an individual considered appropriately qualified for the subject matter taught and who has completed at least one year of study at an accredited college or university and meets the qualifications outlined in Section 59‑25‑115.

(7) ‘Charter committee’ means the governing body of a charter school formed by the applicant to govern through the application process and until the election of a board of directors is held. After the election, the board of directors of the corporation must be organized as the governing body and the charter committee is dissolved.

(8) ‘Local school district’ means any school district in the State except the South Carolina Public Charter School District and does not include special school districts.

(9) ‘Charter school contract’ means a fixed term, renewable contract between a charter school and a sponsor that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

(10) ‘Resident public school’ means the school, other than a charter school, within whose attendance boundaries the charter school student’s custodial parent or legal guardian resides.”

SECTION 6. Section 59‑40‑50 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑50. (A) Except as otherwise provided in this chapter, a charter school is exempt from all provisions of law and regulations applicable to a public school, a school board, or a district, although a charter school may elect to comply with one or more of these provisions of law or regulations.

(B) A charter school must:

(1) adhere to the same health, safety, civil rights, and disability rights requirements as are applied to public schools operating in the same school district or, in the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the local school district in which the charter school is located;

(2) meet, but may exceed, the same minimum student attendance requirements as are applied to public schools;

(3) adhere to the same financial audits, audit procedures, and audit requirements as are applied to public schools;

(4) be considered a school district for purposes of tort liability under South Carolina law, except that the tort immunity does not include acts of intentional or wilful racial discrimination by the governing body or employees of the charter school. Employees of charter schools must be relieved of personal liability for any tort or contract related to their school to the same extent that employees of traditional public schools in their school district or, in the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the local school district in which the charter school is located are relieved;

(5) in its discretion hire noncertified teachers in a ratio of up to twenty‑five percent of its entire teacher staff; however, if it is a converted charter school, it shall hire in its discretion noncertified teachers in a ratio of up to ten percent of its entire teacher staff. However, in either a new or converted charter school, a teacher teaching in the core academic areas as defined by the federal No Child Left Behind law must be certified in those areas or possess a baccalaureate or graduate degree in the subject he or she is hired to teach. Part‑time noncertified teachers are considered pro rata in calculating this percentage based on the hours which they are expected to teach;

(6) hire in its discretion administrative staff to oversee the daily operation of the school. At least one of the administrative staff must be certified or experienced in the field of school administration;

(7) admit all children eligible to attend public school to a charter school, subject to space limitations, except in the case of an application to create a single gender charter school. However, it is required that the racial composition of the charter school enrollment reflect that of the local school district in which the charter school is located or that of the targeted student population of the local school district that the charter school proposes to serve, to be defined for the purposes of this chapter as differing by no more than twenty percent from that population. This requirement is also subject to the provisions of Section 59‑40‑70(D). If the number of applications exceeds the capacity of a program, class, grade level, or building, students must be accepted by lot, and there is no appeal to the sponsor;

(8) not limit or deny admission or show preference in admission decisions to any individual or group of individuals, except in the case of an application to create a single gender charter school; ~~however,~~ A charter school may give enrollment priority to a sibling of a pupil ~~already~~ currently enrolled or previously enrolled~~,~~. A charter school also may give priority to children of a charter school employee~~,~~ and children of the charter committee, if ~~such~~ priority enrollment for children of employees and of the charter committee does not constitute more than twenty percent of the enrollment of the charter school;

(9) elect its board of directors ~~annually~~. At least one‑third of the board positions must be open for election annually, allowing for staggered terms of no more than three years. Board members may be reelected for consecutive terms as allowed by the charter school bylaws. All employees of the charter school and all parents or guardians of students enrolled in the charter school are eligible to participate in the election. Parents or guardians of a student shall have one vote for each student enrolled in the charter school. A person who has been convicted of a felony must not be elected to a board of directors;

(10) be subject to the Freedom of Information Act, including the charter school and its governing body. A board of directors of a charter school shall notify its sponsor of any regular meeting of the board at least forty‑eight hours prior to the date on which it is to occur.

(C)(1) If a charter school denies admission to a student, the student may appeal the denial to the sponsor. The decision is binding on the student and the charter school.

(2) If a charter school suspends or expels a student, other charter schools or the local school district in which the charter school is located has the authority but not the obligation to refuse admission to the student.

(3) ~~The sponsor has no obligation to provide extracurricular activities or access to facilities of the school district for students enrolled in the charter school; however, the charter contract may include participation in agreed upon interscholastic activities at a designated school within the sponsor district. Notwithstanding another provision of law, the local school district has no obligation to provide charter schools, sponsored by the South Carolina Public Charter School District, extracurricular activities or access to facilities of the school district for students enrolled in charter schools unless the school district, by contract, has agreed to provide activities or access. Students participating under this agreement must be considered eligible to participate in league events if other eligibility requirements are met.~~

(a) A charter school is eligible for federally sponsored, state‑sponsored or district‑sponsored interscholastic leagues, competitions, awards, scholarships, grants, and recognition programs for students, educators, administrators, staff, and schools to the same extent as all other public schools.

(b) A charter school student is eligible to compete for, and if selected, participate in extracurricular activities not offered by the student’s school at the resident public school.

(c) A charter school student is eligible for extracurricular activities at the student’s resident public school consistent with eligibility standards as applied to full‑time students of the resident public school.

(d) A school district or resident public school may not impose additional requirements on a charter school student to participate in extracurricular activities that are not imposed on full‑time students of the resident public school.

(e) Charter school students shall pay the same fees as other students to participate in extracurricular activities.

(f) Charter school students shall be eligible for the same fee waivers for which other students are eligible.

(D) The State is not responsible for student transportation to a charter school unless the charter school is designated by the local school district as the only school selected within the local school district’s attendance area. However, a charter school may enter into a contract with a school district or a private provider to provide transportation to the charter school students.

(E) The South Carolina Public Charter School District Board of Trustees may not use program funding for transportation.”

SECTION 7. Section 59‑40‑60 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑60. (A) An approved charter application constitutes an agreement~~, and the terms must be the terms of a contract~~ between the charter school and the sponsor.

(B) ~~The~~ A contract between the charter school and the sponsor ~~shall~~ must be executed and must reflect all provisions outlined in the application as well as the roles, powers, responsibilities, and performance expectations for each party to the contract. A contract must include the proposed enrollment procedures and dates of the enrollment period of the charter school. All agreements regarding the release of the charter school from school district policies must be contained in the contract. The Department of Education shall develop a contract template to be used by charter schools and the sponsor. The template must serve as a foundation for the development of a contract between the charter school and the sponsor.

(C) A material revision of the terms of the contract between the charter school and the sponsor may be made only with the approval of both parties.

(D) Except as provided in subsection (F), an applicant who wishes to form a charter school shall:

(1) organize the charter school as a nonprofit corporation pursuant to the laws of this State;

(2) form a charter committee for the charter school which includes one or more teachers;

(3) submit a written charter school application to the charter school advisory committee and to the ~~school~~ board of trustees or area commission from which the committee is seeking sponsorship.

(E) A charter committee is responsible for and has the power to:

(1) submit an application to operate as a charter school, sign a charter school contract, and ensure compliance with all of the requirements for charter schools provided by law;

(2) employ and contract with teachers and nonteaching employees, contract for services, and develop pay scales, performance criteria, and discharge policies for its employees. All teachers whether certified or noncertified must undergo the background checks and other investigations required for certified teachers, as provided by law, before they may teach in the charter school; and

(3) decide all other matters related to the operation of the charter school, including budgeting, curriculum, and operating procedures.

(F) The charter school application ~~shall be a proposed contract and~~ must include:

(1) the mission statement of the charter school, which must be consistent with the principles of the General Assembly’s purposes pursuant to Section 59‑40‑20;

(2) the goals, objectives, and pupil achievement standards to be achieved by the charter school, and a description of the charter school’s admission policies and procedures;

(3) evidence that an adequate number of parents, teachers, pupils, or any combination of them support the formation of a charter school;

(4) a description of the charter school’s educational program, pupil achievement standards, and curriculum which must meet or exceed any content standards adopted by the State Board of Education and the ~~chartering district~~ sponsor must be designed to enable each pupil to achieve these standards;

(5) a description of the charter school’s plan for evaluating pupil achievement and progress toward accomplishment of the school’s achievement standards in addition to state assessments, the timeline for meeting these standards, and the procedures for taking corrective action if that pupil achievement falls below the standards;

(6) evidence that the plan for the charter school is economically sound, a proposed budget for the term of the charter, a description of the manner in which an annual audit of the financial and administrative operations of the charter school, including any services provided by the ~~school district~~ sponsor, is to be conducted;

(7) a description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school;

(8) a description of how the charter school plans to ensure that the enrollment of the school is similar to the racial composition of the local school district in which the charter school is to be located or the targeted student population of the local school district that the charter school proposes to serve and provide assurance that the school does not conflict with any school district desegregation plan or order in effect for the school district in which the charter school is to be located;

(9) a description of how the charter school plans to meet the transportation needs of its pupils;

(10) a description of the building, facilities, and equipment and how they shall be obtained;

(11) an explanation of the relationship that shall exist between the proposed charter school and its employees, including descriptions of evaluation procedures and evidence that the terms and conditions of employment have been addressed with affected employees;

(12) a description of a reasonable grievance and termination procedure, as required by this chapter, including notice and a hearing before the governing body of the charter school. The application must state whether or not the provisions of Article 5, Chapter 25 ~~of~~, Title 59 apply to the employment and dismissal of teachers at the charter school;

(13) a description of student rights and responsibilities, including behavior and discipline standards, and a reasonable hearing procedure, including notice and a hearing before the board of directors of the charter school before expulsion;

(14) an assumption of liability by the charter school for the activities of the charter school and an agreement that the charter school must indemnify and hold harmless the ~~school district~~ sponsor, its servants, agents, and employees, from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from injury to persons or property or otherwise which arises out of the act, failure to act, or negligence of the charter school, its agents and employees, in connection with or arising out of the activity of the charter school; and

(15) a description of the types and amounts of insurance coverage to be obtained by the charter school.

(G) Nothing in this section shall require a charter school applicant to provide a list of prospective or tentatively enrolled students or prospective employees with the application.”

SECTION 8. Section 59‑40‑70 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑70. (A) The Charter School Advisory Committee must be established by the State Board of Education to review charter school applications for compliance with established standards that reflect the requirements and intent of this chapter. Members must be appointed by the State Board of Education unless otherwise indicated.

(1) The advisory committee shall consist of eleven members as follows:

(a) ~~South Carolina Association of Public Charter Schools, the president or his designee and one additional representative from the association;~~

~~(b)~~ South Carolina Association of School Administrators, the executive director or his designee;

~~(c)~~(b) South Carolina Chamber of Commerce, the executive director or his designee and one additional representative from the chamber;

~~(d)~~(c) South Carolina Education Oversight Committee, the chair or a business designee;

~~(e)~~(d) South Carolina Commission on Higher Education, the chair or his designee;

~~(f)~~(e) South Carolina School Boards Association, the executive director or his designee;

~~(g)~~(f) South Carolina Alliance of Black Educators, the president or his designee; ~~and~~

~~(h)~~(g) one teacher and one parent to be appointed by the State Superintendent of Education~~.~~; and

(h) one charter school principal and one charter school board member to be appointed by the Governor.

(2) As an application is reviewed, a representative from the board of trustees or area commission from which the committee is seeking sponsorship and a representative of the charter committee shall serve on the advisory committee as ex officio nonvoting members. If the applicant indicates a proposed contractual agreement with the local school district in which the charter school is located, a representative from the local school board of trustees of that district shall serve on the advisory committee as an ex officio, nonvoting member.

(3) Appointing authorities shall give consideration to the appointment of minorities and women as representatives on the committee.

(4) The committee shall establish bylaws for its operation that must include terms of office for its membership.

(5) An applicant shall submit the application to the advisory committee and one copy to the ~~school~~ board of trustees ~~of the district~~ or area commission from which it is seeking sponsorship. In the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the applicant shall provide notice of the application to the local school board of trustees in which the charter school will be located for informational purposes only. The advisory committee shall receive input from the school district ~~in~~ or the public or independent institution of higher learning from which the applicant is seeking sponsorship and shall request clarifying information from the applicant. An applicant may submit an application to the advisory committee ~~at any time during the fiscal year~~ pursuant to State Board of Education regulations and the advisory committee, within ~~sixty~~ ninety days, shall determine whether the application is in compliance. An application that is in compliance must be forwarded to the board or area commission of the school district or the public or independent institution of higher learning from which the applicant is seeking sponsorship with a letter stating the application is in compliance. The letter also shall include a recommendation from the Charter School Advisory Committee to approve or deny the charter. The letter must specify the reasons for its recommendation. This recommendation is nonbinding on the school board of trustees or area commission. If the application is in noncompliance, it must be returned to the applicant with deficiencies noted. The applicant may appeal the decision to the Administrative Law Court.

(B) The ~~school~~ board of trustees or area commission from which the applicant is seeking sponsorship shall rule on the application for a charter school in a public hearing, upon reasonable public notice, within ~~thirty~~ forty‑five days after receiving the application. If there is no ruling within ~~thirty~~ forty‑five days, the application is considered approved. Once the application has been approved by the ~~school~~ board of trustees or area commission, the charter school may open at the beginning of the following year. However, before a charter school may open, the State Department of Education shall verify the accuracy of the financial data for the school within forty‑five days after approval.

(C) A ~~school district~~ board of trustees ~~only~~ or area commission shall deny an application only if the application does not meet the requirements specified in Section 59‑40‑50 or 59‑40‑60, fails to meet the spirit and intent of this chapter, or adversely affects, as defined in regulation, the other students in the district in which the charter school is to be located. It shall provide, within ten days, a written explanation of the reasons for denial, citing specific standards related to provisions of Section 59‑40‑50 or 59‑40‑60 that the application violates. This written explanation immediately must be sent to the charter committee and filed with the State Board of Education and the Charter School Advisory Committee.

(D) In the event that the racial composition of an applicant’s or charter school’s enrollment differs from the enrollment of the local school district in which the charter school is to be located or the targeted student population of the local school district by more than twenty percent, despite its best efforts, the ~~school district~~ board of trustees or area commission from which the applicant is seeking sponsorship shall consider the applicant’s or the charter school’s recruitment efforts and racial composition of the applicant pool in determining whether the applicant or charter school is operating in a nondiscriminatory manner. A finding by the ~~school district~~ board of trustees or area commission that the applicant or charter school is operating in a racially discriminatory manner justifies the denial of a charter school application or the revocation of a charter as provided in this section or in Section 59‑40‑110, as may be applicable. A finding by the ~~school district~~ board of trustees or area commission that the applicant is not operating in a racially discriminatory manner justifies approval of the charter without regard to the racial percentage requirement if the application is acceptable in all other aspects.

(E) If the ~~school district~~ board of trustees or area commission from which the applicant is seeking sponsorship denies a charter school application, the charter applicant may appeal the denial to the Administrative Law Court pursuant to Section 59‑40‑90.

(F) If the ~~school district~~ board of trustees or area commission approves the application, it becomes the charter school’s sponsor and shall sign the approved application~~, which constitutes a contract with the charter committee of the charter school~~. The sponsor shall submit a copy of the charter ~~must be filed with~~ contract to the State Board of Education.

(G) If a local school board of trustees has information that an approved application by the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor adversely affects the other students in its district, as defined in regulation, or that the approval of the application fails to meet the spirit and intent of this chapter, the local school board of trustees may appeal the granting of the charter to the Administrative Law Court. The Administrative Law Court, within forty‑five days, may affirm or reverse the application for action by the South Carolina Public Charter School District or the public or independent institution of higher learning in accordance with an order of the state board.”

SECTION 9. Section 59‑40‑100 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑100. (A) An existing public school may be converted into a charter school if two‑thirds of the faculty and instructional staff employed at the school and ~~two‑thirds~~ a majority of ~~all voting parents or legal guardians of students enrolled in the school~~ returned premailed ballots issued to those who are eligible to vote agree to the filing of an application with the local school board of trustees for the conversion and formation of that school into a charter school. Parents or legal guardians of students enrolled in the school must be given the opportunity to vote on the conversion. Parents or guardians of a student shall have one vote for each student enrolled in the school seeking conversion. The State Board of Education shall promulgate regulations providing for paper ballots to be used in the voting process. The application must be submitted pursuant to Section 59‑40‑70(A)(5) by the principal of that school or his designee who must be considered the applicant. The application must include all information required of other applications pursuant to this chapter. The local school board of trustees shall approve or disapprove this application in the same manner it approves or disapproves other applications. The existence of another charter granting authority must not be grounds for disapproving a school desiring to convert to a charter school.

(B) A converted charter school shall offer at least the same grades, or nongraded education appropriate for the same ages and education levels of pupils, as offered by the school immediately before conversion, and also may provide additional grades and further educational offerings.

(C) All students enrolled in the school at the time of conversion must be given priority enrollment. Thereafter, students who reside within the former attendance area of that public school must be given enrollment priority.

(D) All employees of a converted school shall remain employees of the local school district ~~or~~, the South Carolina Public Charter School District, or the public or independent institution of higher learning sponsor with the same compensation and benefits including any future increases. The converted charter school quarterly shall reimburse the local school district ~~or~~, the South Carolina Public Charter School District, or the public or independent institution of higher learning sponsor for the compensation and employer contribution benefits paid to or on behalf of these employees and also provide to the ~~school district~~ sponsor any reports, forms, or data necessary for maintaining retirement coverage and providing South Carolina Retirement Systems benefits to converted school employees. The provisions of Article 5, Chapter 25 ~~of~~, Title 59 apply to the employment and dismissal of teachers at a converted school.

(E) For the duration of a converted charter school’s contract with a sponsor, a converted charter school shall have the right to retain occupancy and use of the school’s facility or facilities and all equipment, furniture, and supplies that were available to the school before it converted, in the same manner as before the school converted, with no additional fees or charges.

~~(E)~~(F) The South Carolina Public Charter School District or a public or independent institution of higher learning may not sponsor a public school to convert to a charter school. However, the South Carolina Public Charter School District or a public or independent institution of higher learning may sponsor a converted charter school renewal if the charter school has not committed a material violation of the provisions specified in subsection (C) of Section 59‑40‑110 and the local school district board of trustees refuses to renew the charter. In such cases, the charter school shall continue to receive local funding pursuant to Section 59‑40‑110(A). However, the charter school is not eligible to receive one hundred percent of the base student cost from the State. The charter school only is eligible to receive the percentage of the base student cost previously received as a school in its former district.”

SECTION 10. Section 59‑40‑110 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑110. (A) A charter must be approved or renewed for a period of ten school years; however, the charter only may be revoked or not renewed under the provisions of subsection (C) of this section. The sponsor annually shall evaluate the conditions outlined in subsection (C). The annual evaluation results must be used in making a determination for nonrenewal or revocation.

(B) A charter renewal application must be submitted to the school’s sponsor, and it must contain:

(1) a report on the progress of the charter school in achieving the goals, objectives, pupil achievement standards, and other terms of the initially approved charter application; and

(2) a financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that allows comparison of these costs to other schools or other comparable organizations, in a format required by the State Board of Education.

(C) A charter ~~must~~ may be revoked or not renewed by the sponsor if it determines that the charter school:

(1) committed a material violation of the conditions, standards, or procedures provided for in the charter application;

(2) failed to meet or make reasonable progress, as defined in the charter application, toward pupil achievement standards identified in the charter application;

(3) failed to meet generally accepted standards of fiscal management; or

(4) violated any provision of law from which the charter school was not specifically exempted.

(D) At least sixty days before not renewing or terminating a charter school, the sponsor shall notify in writing the charter school’s governing body of the proposed action. The notification shall state the grounds for the proposed action in reasonable detail. Termination must follow the procedure provided for in this section.

(E) The existence of another charter granting authority must not be grounds for the nonrenewal or revocation of a charter. Grounds for nonrenewal or revocation must be only those specified in subsection (C) of this section.

(F) The charter school’s governing body may request in writing a hearing before the sponsor within fourteen days of receiving notice of nonrenewal or termination of the charter. Failure by the school’s governing body to make a written request for a hearing within fourteen days must be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponsor shall give reasonable notice to the school’s governing body of the hearing date. The sponsor shall conduct a hearing before taking final action. The sponsor shall take final action to renew or not renew a charter by the last day of classes in the last school year for which the charter school is authorized.

(G) A charter school seeking renewal may submit a renewal application to another charter granting authority if the charter school has not committed a material violation of the provisions specified in subsection (C) of this section and the ~~local school district board of trustees~~ sponsor refuses to renew the charter. In such cases, the charter school shall continue to receive local funding pursuant to Section 59‑40‑140(A). However, the charter school is not eligible to receive one hundred percent of the base student cost from the State. The charter school only is eligible to receive the percentage of the base student cost previously received as a school in its former district.

(H) A decision to revoke or not to renew a charter school may be appealed to the Administrative Law Court pursuant to the provisions of Section 59‑40‑90.”

SECTION 11. Section 59‑40‑140 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑140. (A) A local school board of trustees sponsor shall distribute state, county, and school district funds to a charter school as determined by the following formula: the previous year’s audited total general fund revenues, divided by the previous year’s weighted students, then increased by the Education Finance Act inflation factor, pursuant to Section 59‑20‑40, for the years following the audited expenditures, then multiplied by the weighted students enrolled in the charter school, which will be subject to adjustment for student attendance and state budget allocations based on the same criteria as the local school district. These amounts must be verified by the ~~State~~ Department of Education before the first disbursement of funds. All state and local funding must be distributed by the local school district to the charter school monthly beginning July first following approval of the charter school application and must continue to be disbursed to the charter school for the duration of its charter and for the duration of any subsequent renewals. After verification of student attendance on the fifth day of school at the beginning of each school year, the State Department of Education shall distribute funds to school districts with charter schools (i) having approved incremental growth and expansion as provided in their charter application, or (ii) for opening of new charter schools in the current fiscal year. These funds must be released to districts on behalf of their charter schools no later than fifteen days after receipt of verified enrollment. Districts shall provide this funding to eligible charters no later than thirty days after receipt from the Department of Education. Necessary adjustments due to enrollment changes must be made pursuant to the Education Finance Act.

(B) ~~The South Carolina Public Charter School District shall receive and distribute state funds to the charter school as determined by the following formula: the current year’s base student cost, as funded by the General Assembly, multiplied by the weighted students enrolled in the charter school, which must be subject to adjustment for student attendance and state budget allocations. These state funds are in addition to other funds to be received and distributed by the South Carolina Public Charter School District pursuant to subsections (C) and (D) of this section and Section 59‑40‑220(A). However, the South Carolina Public Charter School District may not retain more than two percent of its gross revenue for its internal administrative and operating expenses~~ The South Carolina Public Charter School District or public or independent institution of higher learning sponsor shall receive and distribute state funds to the charter school as provided by the General Assembly.

(C) During the year of the charter school’s operation, as received, and to the extent allowed by federal law, a sponsor shall distribute to the charter school federal funds which are allocated to the ~~school district~~ sponsor on the basis of the number of special characteristics of the students attending the charter school. These amounts must be verified by the State Department of Education before the first disbursement of funds.

(D) Notwithstanding subsection (C), the proportionate share of state and federal resources generated by students ~~with disabilities~~ or staff serving them must be directed to the ~~school district board of trustees~~ sponsor. ~~The proportionate share of funds generated under other federal or state categorical aid programs must be directed to the school district board of trustees serving students eligible for the aid pursuant to state and federal law.~~ After receipt of federal or state categorical aid funds, sponsors shall, within ten business days, supply to the charter school the proportional share of each categorical fund for which the charter school qualifies. If the sponsor fails to do so, the Department of Education may fine the sponsor an amount equivalent to the withheld amounts. Fines imposed must be remitted to the charter school from which the amounts were withheld.

(E) All services centrally or otherwise provided by the sponsor ~~or local school district, if any,~~ including, but not limited to, food services, custodial services, maintenance, curriculum, media services, libraries, and warehousing are subject to negotiation between a charter school and the sponsor ~~or local school district~~ and must be outlined in the contract required pursuant to Section 59‑40‑70(F).

(F) All awards, grants, or gifts collected by a charter school must be retained by the charter school.

(G) The governing body of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to expend or use the gifts, donations, or grants in accordance with the conditions prescribed by the donor. A gift or donation must not be required for admission. However, a gift, donation, or grant must not be accepted by the governing board if subject to a condition contrary to law or contrary to the terms of the contract between the charter school and the governing body. All gifts, donations, or grants must be reported to the sponsor in their annual audit report as required in Section 59‑40‑50(B)(3).

(H) A charter school shall report to its sponsor and the Department of Education any change to information provided under its application. In addition, a charter school shall report at least annually to its sponsor and the sponsor shall compile those reports into a single document which must be submitted to the department. The Department of Education shall develop a template to be used by charter schools for this annual report. The report shall provide all information required by the sponsor or the department and shall include ~~including~~, at a minimum~~,~~:

(1) the number of students enrolled in the charter school from year to year;

(2) the success of students in achieving the specific educational goals for which the charter school was established;

(3) an analysis of achievement gaps among major groupings of students in both proficiency and growth; ~~and~~

(4) the identity and certification status of the teaching staff;

(5) the financial performance and sustainability of the sponsor’s charter schools; and

(6) board performance and stewardship including compliance with applicable laws.

(I) The sponsor shall provide technical assistance to persons and groups preparing or revising charter applications at no expense.

(J) Charter schools may acquire by gift, devise, purchase, lease, sublease, installment purchase agreement, land contract, option, or by any other means, and hold and own in its own name buildings or other property for school purposes and interests in it which are necessary or convenient to fulfill its purposes.

(K) Charter schools are exempt from all state and local taxation, except the sales tax, on their earnings and property. Instruments of conveyance to or from a charter school are exempt from all types of taxation of local or state taxes and transfer fees.”

SECTION 12. Section 59‑40‑190(C) of the 1976 Code is amended to read:

“(C) A local school district, sponsor, members of the board or area commission of a sponsor, and employees of a sponsor acting in their official capacity are immune from civil or criminal liability with respect to all activities related to a charter school they sponsor. The governing body of a charter school shall obtain at least the amount of and types of insurance required for this purpose.”

SECTION 13. Section 59‑40‑230(A) of the 1976 Code, as added by Act 274 of 2006, is amended to read:

“(A) The South Carolina Public Charter School District must be governed by a board of trustees consisting of not more than ~~eleven~~ nine members:

(1) two appointed by the Governor;

(2) one appointed by the Speaker of the House of Representatives;

(3) one appointed by the President *Pro Tempore* of the Senate; and

(4) ~~seven~~ five to be appointed by the Governor upon the recommendation of the:

(a) ~~South Carolina Association of Public Charter Schools and one additional representative from the association;~~

~~(b)~~ South Carolina Association of School Administrators;

~~(c)~~(b) South Carolina Chamber of Commerce;

~~(d)~~(c) South Carolina Education Oversight Committee;

~~(e)~~(d) South Carolina School Boards Association; and

~~(f)~~(e) South Carolina Alliance of Black Educators.

The ~~nine~~ seven members appointed by the Governor pursuant to this subsection are subject to advice and consent of the Senate. Membership of the committee must reflect representatives from each of the entities in item (A)(4) or their designee as reflected in their recommendation.

Each member of the board of trustees shall serve terms of three years, except that, for the initial members, two appointed by the Governor, one by the Speaker of the House, and one by the President *Pro Tempore* of the Senate, shall serve terms of one year and three appointed by the Governor shall serve terms of two years. A member of the board may be removed after appointment pursuant to Section 1‑3‑240. In making appointments, every effort must be made to ensure that all geographic areas of the State are represented and that the membership reflects urban and rural areas of the State as well as the ethnic diversity of the State.”

SECTION 14. Section 59‑40‑130(A) of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“(A)(1) If an employee of a local school district makes a written request for leave to be employed at a charter school before July 1, 2006, the school district shall grant the leave for up to five years as requested by the employee. The school district may require that the request for leave or extension of leave be made by the date provided for by state law for the return of teachers’ contracts. Employees may return to employment with the local school district at its option with the same teaching or administrative contract status as when they left but without assurance as to the school or supplemental position to which they may be assigned.

(2) Notwithstanding the provisions of item (1) of this subsection and subject to the provisions of subsection (B) of this section, a charter school employing after June 30, 2006, an individual on leave from a local school district shall participate in the South Carolina Retirement Systems as a covered employer with respect to that employee on leave through the earlier of the date the employee on leave returns to employment by the district or June 30, 2011, and only if the charter school and the employee have made required employer and employee contributions to the South Carolina Retirement Systems from the employee’s date of employment with the charter school.”

SECTION 15. Section 59‑40‑220(A) of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“(A) The South Carolina Public Charter School District may not have a local tax base and may not receive local property taxes. This prohibition does not extend to local funds received by the district on behalf of sponsored charter schools pursuant to Section 59‑40‑140(B).”

SECTION 16. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Rep. OTT spoke in favor of the amendment.

The amendment was then adopted.

Rep. WHITMIRE proposed the following Amendment No. 4 (COUNCIL\AGM\18737BH11), which was adopted:

Amend the bill, as and if amended, by deleting in its entirety Section 59‑40‑50(C)(3)(b) and inserting:

/ (b) A charter school student is eligible to compete for, and if selected, participate in extracurricular activities not offered by the student’s school at the resident public school, except activities governed by the South Carolina High School League, wherein a charter school student is eligible to compete to participate in these activities at his resident public school if the charter school he attends is not a member of the South Carolina High School League. /

Renumber sections to conform.

Amend title to conform.

Rep. WHITMIRE explained the amendment.

The amendment was then adopted.

Rep. R. L. BROWN proposed the following Amendment No. 5 (COUNCIL\AGM\18738BH11), which was adopted:

Amend the bill, as and if amended, Section 59‑40‑70(A) by adding:

/ (6) The advisory committee shall notify the local delegation of a county in which a proposed charter school is to be located upon receipt of a charter school application and also shall provide a copy of the charter school application upon request by a member of the local delegation. /

Renumber sections to conform.

Amend title to conform.

Rep. R. L. BROWN explained the amendment.

The amendment was then adopted.

Rep. CLEMMONS proposed the following Amendment No. 7 (COUNCIL\AGM\18734BH11), which was adopted:

Amend the bill, as and if amended, by deleting in its entirety Section 59‑40‑50(B)(9) and inserting:

/ (9) elect its board of directors ~~annually~~.

(i) At least one‑third of the board positions must be open for election annually, allowing for staggered terms of no more than three years. Board members may be reelected for consecutive terms as allowed by the charter school bylaws. All employees of the charter school and all parents or guardians of students enrolled in the charter school are eligible to participate in the election. Parents or guardians of a student shall have one vote for each student enrolled in the charter school. A person who has been convicted of a felony must not be elected to a board of directors;

(ii) Section 59‑40‑50(B)(9)(i) does not apply to a charter school that originated by application of a local school district. In the case of a charter school that originated by application of a local school district, the governing board of the charter school consists of the elected members of the board of trustees of the local school district; /

Renumber sections to conform.

Amend title to conform.

Rep. CLEMMONS explained the amendment.

The amendment was then adopted.

Rep. G. R. SMITH proposed the following Amendment No. 8 (COUNCIL\AGM\18757BH11), which was tabled:

Amend the bill, as and if amended, by deleting in its entirety Section 59‑40‑50(B)(8) and inserting:

/ (8) not limit or deny admission or show preference in admission decisions to any individual or group of individuals, except in the case of an application to create a single gender charter school; ~~however,~~ A charter school may give enrollment priority to a sibling of a pupil ~~already~~ currently enrolled ~~or previously enrolled,~~ or who, within the last three years, attended the school for at least one academic year. A charter school also may give priority to children of a charter school employee~~,~~ and children of the charter committee, if ~~such~~ priority enrollment for children of employees and of the charter committee does not constitute more than twenty percent of the enrollment of the charter school; /

Renumber sections to conform.

Amend title to conform.

Rep. G. R. SMITH explained the amendment.

Rep. G. R. SMITH moved to table the amendment, which was agreed to.

Rep. G. R. SMITH proposed the following Amendment No. 9 (LEGWORK\HOUSE\18736BH11KRL), which was adopted:

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

/ SECTION \_\_\_. Article 5, Chapter 1, Title 59 of the 1976 Code is amended by adding:

“Section 59‑1‑490. The exemption provisions provided in Section 59‑40‑50 that apply to charter schools also apply to traditional public schools of the local public school districts of this State, except that a traditional public school may employ noncertified teachers in a ratio of up to ten percent of its entire teacher staff. A traditional public school may not limit or deny admission or show preference in admission decisions to any group of individuals, and it must meet the student attendance requirements as provided in this title.” /

Renumber sections to conform.

Amend title to conform.

Rep. G. R. SMITH explained the amendment.

Rep. SKELTON spoke against the amendment.

Rep. OTT spoke against the amendment.

Rep. SKELTON moved to table the amendment.

Rep. G. R. SMITH demanded the yeas and nays which were taken, resulting as follows:

Yeas 49; Nays 67

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Agnew | Alexander | Anderson |
| Anthony | Bales | Battle |
| Bowers | Branham | Brantley |
| G. A. Brown | H. B. Brown | R. L. Brown |
| Butler Garrick | Clyburn | Cobb-Hunter |
| Frye | Funderburk | Gilliard |
| Govan | Hart | Hayes |
| Hiott | Hodges | Hosey |
| Howard | Jefferson | Knight |
| Mack | McEachern | McLeod |
| Mitchell | Munnerlyn | J. H. Neal |
| J. M. Neal | Neilson | Ott |
| Parker | Parks | Rutherford |
| Sabb | Sellers | Skelton |
| Spires | Stavrinakis | Tribble |
| Vick | Weeks | Whipper |
| Williams |  |  |

**Total--49**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Allen | Allison | Ballentine |
| Bannister | Barfield | Bikas |
| Bingham | Bowen | Brady |
| Brannon | Chumley | Clemmons |
| Cole | Cooper | Corbin |
| Crawford | Crosby | Daning |
| Delleney | Dillard | Edge |
| Erickson | Forrester | Gambrell |
| Hamilton | Hardwick | Harrell |
| Harrison | Hearn | Henderson |
| Herbkersman | Hixon | Huggins |
| King | Limehouse | Loftis |
| Long | Lowe | Lucas |
| McCoy | Merrill | D. C. Moss |
| V. S. Moss | Murphy | Nanney |
| Owens | Patrick | Pinson |
| Pitts | Pope | Quinn |
| Ryan | Sandifer | Simrill |
| G. M. Smith | G. R. Smith | J. R. Smith |
| Sottile | Stringer | Tallon |
| Taylor | Thayer | Toole |
| White | Whitmire | Willis |
| Young |  |  |

**Total--67**

So, the House refused to table the amendment.

The question then recurred to the adoption of the amendment.

Rep. SIMRILL demanded the yeas and nays which were taken, resulting as follows:

Yeas 73; Nays 43

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Allen | Allison | Anthony |
| Ballentine | Bannister | Barfield |
| Battle | Bikas | Bingham |
| Bowen | Brady | Branham |
| Brannon | R. L. Brown | Chumley |
| Clemmons | Cole | Cooper |
| Corbin | Crawford | Crosby |
| Daning | Delleney | Dillard |
| Erickson | Forrester | Gambrell |
| Hamilton | Hardwick | Harrell |
| Harrison | Hayes | Hearn |
| Henderson | Herbkersman | Hixon |
| Huggins | Limehouse | Loftis |
| Long | Lowe | Lucas |
| McCoy | Merrill | D. C. Moss |
| V. S. Moss | Murphy | Nanney |
| J. M. Neal | Norman | Owens |
| Patrick | Pinson | Pitts |
| Pope | Quinn | Ryan |
| Sandifer | Simrill | G. M. Smith |
| G. R. Smith | J. R. Smith | Sottile |
| Stringer | Tallon | Taylor |
| Thayer | Toole | Tribble |
| White | Whitmire | Willis |
| Young |  |  |

**Total--73**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Agnew | Alexander | Anderson |
| Bales | Bowers | Brantley |
| G. A. Brown | H. B. Brown | Butler Garrick |
| Clyburn | Cobb-Hunter | Frye |
| Funderburk | Gilliard | Govan |
| Hart | Hiott | Hodges |
| Hosey | Howard | Jefferson |
| King | Knight | Mack |
| McEachern | McLeod | Mitchell |
| Munnerlyn | J. H. Neal | Neilson |
| Ott | Parker | Parks |
| Rutherford | Sabb | Sellers |
| Skelton | Spires | Stavrinakis |
| Vick | Weeks | Whipper |
| Williams |  |  |

**Total--43**

So, the amendment was adopted.

Rep. G. R. SMITH proposed the following Amendment No. 10 (COUNCIL\AGM\18758BH11), which was adopted:

Amend the bill, as and if amended, by deleting in its entirety Section 59‑40‑50(B)(8) and inserting:

/ (8) not limit or deny admission or show preference in admission decisions to any individual or group of individuals, except in the case of an application to create a single gender charter school, in which case gender may be the only reason to show preference or deny admission to the school; ~~however,~~ a charter school may give enrollment priority to a sibling of a pupil ~~already~~ currently enrolled ~~or previously enrolled,~~ or who, within the last three years, attended the school for at least one academic year. A charter school also may give priority to children of a charter school employee~~,~~ and children of the charter committee, if ~~such~~ priority enrollment for children of employees and of the charter committee does not constitute more than twenty percent of the enrollment of the charter school; /

Renumber sections to conform.

Amend title to conform.

Rep. G. R. SMITH explained the amendment.

The amendment was then adopted.

The Education and Public Works Committee proposed the following Amendment No. 1 (COUNCIL\AGM\18585BH11), which was tabled:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Chapter 40, Title 59 of the 1976 Code is amended by adding:

“Section 59‑40‑55. (A) A charter school sponsor shall:

(1) approve charter applications that meet the requirements specified in Sections 59‑40‑50 and 59‑40‑60;

(2) decline to approve charter applications according to Section 59‑40‑70(C);

(3) negotiate and execute sound charter contracts with each approved charter school;

(4) monitor, in accordance with charter contract terms, the performance and legal/fiscal compliance of charter schools to include collecting and analyzing data to support ongoing evaluation according to the charter contract;

(5) conduct or require oversight activities that enable the sponsor to fulfill its responsibilities outlined in this chapter, including conducting appropriate inquiries and investigations, only if those activities are consistent with the intent of this chapter, adhere to the terms of the charter contact, and do not unduly inhibit the autonomy granted to public charter schools;

(6) collect, in accordance with Section 59‑40‑140(H), an annual report from each of its sponsored charter schools and submit the reports to the Department of Education;

(7) notify the charter school of perceived problems if its performance or legal compliance appears to be unsatisfactory and provide reasonable opportunity for the school to remedy the problem, unless the problem warrants revocation and revocation timeframes apply;

(8) take appropriate corrective actions or exercise sanctions short of revocation in response to apparent deficiencies in charter school performance or legal compliance. These actions or sanctions may include requiring a school to develop and execute a corrective action plan within a specified timeframe;

(9) determine whether each charter contract merits renewal, nonrenewal, or revocation; and

(10) provide to parents and the general public information about charter schools authorized by the district as an enrollment option within the district to the same extent and through the same means as the district provides and publicizes information about all public schools in the district. A charter school shall notify its sponsor of its enrollment procedures and dates of its enrollment period no less than sixty days prior to the first day of its enrollment period.

(B) The South Carolina Public Charter School District may retain no more than two percent of the total state appropriations for each charter school it authorizes to cover the costs for overseeing its charter schools. The sponsor’s administrative fee does not include costs incurred in delivering services that a charter school may purchase at its discretion from the sponsor. The sponsor’s fee is not applicable to federal money or grants received by the charter school. The sponsor shall use its funding provided pursuant to this section exclusively for the purpose of fulfilling sponsor obligations in accordance with this chapter.”

SECTION 2. Chapter 40, Title 59 of the 1976 Code is amended by adding:

“Section 59‑40‑175. There is created in the state treasury the Charter School Facility Revolving Loan Program. This loan program is comprised of federal funds obtained by the state for charter school facilities, other funds appropriated or transferred to the fund by the state, and privately donated funds. Funds deposited to the Charter School Facility Revolving Loan Program must remain available for the purposes of the program until appropriated or reverted by the General Assembly. The State Treasurer may approve loans from monies in the Charter School Revolving Loan Program to a charter school, upon application by the charter school. Money loaned to a charter school pursuant to this section must be used for construction, purchase, renovation, and maintenance of public charter school facilities. The State Treasurer shall establish guidelines and procedures for application, approval, allocation, and repayment regarding loans from these monies.”

SECTION 3. Chapter 40, Title 59 of the 1976 Code is amended by adding:

“Section 59‑40‑235. The geographical boundaries from which a charter school sponsored by a public or independent institution of higher learning may accept students are the same as the boundaries of the state of South Carolina.”

SECTION 4. Section 59‑40‑20 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑20. This chapter is enacted to:

(1) improve student learning;

(2) increase learning opportunities for students;

(3) encourage the use of a variety of productive teaching methods;

(4) establish new forms of accountability for schools;

(5) create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site; ~~and~~

(6) assist South Carolina in reaching academic excellence~~.~~; and

(7) create new, innovative, and more flexible ways of educating children within the public school system, with the goal of closing achievement gaps between low performing student groups and high performing student groups.”

SECTION 5. Section 59‑40‑40 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑40. As used in this chapter:

(1) A ‘charter school’ means a public, nonreligious, nonhome‑based, nonprofit corporation forming a school that operates ~~within~~ by sponsorship of a public school district ~~or~~, the South Carolina Public Charter School District, or a public or private institution of higher learning, but is accountable to the school board of trustees ~~of that district~~, or in the case of technical colleges, the area commission, of the sponsor which grants its charter. Nothing in this chapter prohibits charter schools from offering virtual services pursuant to state law and subsequent regulations defining virtual schools.

(2) A charter school:

(a) is, for purposes of state law and the state constitution, considered a public school and part of the South Carolina Public Charter School District ~~or~~, the local school district in which it is located ~~for the purposes of state law and the state constitution~~, or is sponsored by a public or independent institution of higher learning;

(b) is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services; however, an applicant may seek to form a single gender charter school without regard to the gender makeup of that proposed charter school;

(c) must be administered and governed by a governing body in a manner agreed to by the charter school applicant and the sponsor, the governing body to be selected~~,~~ as provided in Section 59‑40‑50(B)(9);

(d) may not charge tuition or other charges pursuant to Section 59‑19‑90(8) except as may be allowed by the sponsor and is comparable to the charges of the local school district in which the charter school is located~~.~~;

(e) is subject to the same fixed asset inventory requirements as are traditional public schools.

(3) ‘Applicant’ means the person who or nonprofit corporate entity that desires to form a charter school and files the necessary application with the South Carolina Public Charter School District Board of Trustees ~~or~~, the local school board of trustees in which the charter school is to be located, or the board of trustees or area commission of a public or independent institution of higher learning. The applicant also must be the person who or the nonprofit corporate entity that applies to the Secretary of State to organize the charter school as a nonprofit corporation.

(4) ‘Sponsor’ means the South Carolina Public Charter School District Board of Trustees ~~or~~, the local school board of trustees in which the charter school is to be located, as provided by law, a public institution of higher learning as defined in Section 59‑103‑5, or an independent institution of higher learning as defined in Section 59‑113‑50, from which the charter school applicant requested its charter and which granted approval for the charter school’s existence. The sponsor of a charter school is the charter school’s Local Education Agency (LEA) and a charter school is a school within that LEA. The sponsor retains responsibility for special education and shall ensure that students enrolled in its charter schools are served in a manner consistent with LEA obligations under applicable federal, state, and local law.

(5) ‘Certified teacher’ means a person currently certified by the State of South Carolina to teach in a public elementary or secondary school or who currently meets the qualifications outlined in Sections 59‑27‑10 and 59‑25‑115.

(6) ‘Noncertified teacher’ means an individual considered appropriately qualified for the subject matter taught and who has completed at least one year of study at an accredited college or university and meets the qualifications outlined in Section 59‑25‑115.

(7) ‘Charter committee’ means the governing body of a charter school formed by the applicant to govern through the application process and until the election of a board of directors is held. After the election, the board of directors of the corporation must be organized as the governing body and the charter committee is dissolved.

(8) ‘Local school district’ means any school district in the State except the South Carolina Public Charter School District and does not include special school districts.

(9) ‘Charter school contract’ means a fixed term, renewable contract between a charter school and a sponsor that outlines the roles, powers, responsibilities, and performance expectations for each party to the contract.

(10) ‘Resident public school’ means the school, other than a charter school, within whose attendance boundaries the charter school student’s custodial parent or legal guardian resides.”

SECTION 6. Section 59‑40‑50 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑50. (A) Except as otherwise provided in this chapter, a charter school is exempt from all provisions of law and regulations applicable to a public school, a school board, or a district, although a charter school may elect to comply with one or more of these provisions of law or regulations.

(B) A charter school must:

(1) adhere to the same health, safety, civil rights, and disability rights requirements as are applied to public schools operating in the same school district or, in the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the local school district in which the charter school is located;

(2) meet, but may exceed, the same minimum student attendance requirements as are applied to public schools;

(3) adhere to the same financial audits, audit procedures, and audit requirements as are applied to public schools;

(4) be considered a school district for purposes of tort liability under South Carolina law, except that the tort immunity does not include acts of intentional or wilful racial discrimination by the governing body or employees of the charter school. Employees of charter schools must be relieved of personal liability for any tort or contract related to their school to the same extent that employees of traditional public schools in their school district or, in the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the local school district in which the charter school is located are relieved;

(5) in its discretion hire noncertified teachers in a ratio of up to twenty‑five percent of its entire teacher staff; however, if it is a converted charter school, it shall hire in its discretion noncertified teachers in a ratio of up to ten percent of its entire teacher staff. However, in either a new or converted charter school, a teacher teaching in the core academic areas as defined by the federal No Child Left Behind law must be certified in those areas or possess a baccalaureate or graduate degree in the subject he or she is hired to teach. Part‑time noncertified teachers are considered pro rata in calculating this percentage based on the hours which they are expected to teach;

(6) hire in its discretion administrative staff to oversee the daily operation of the school. At least one of the administrative staff must be certified or experienced in the field of school administration;

(7) admit all children eligible to attend public school to a charter school, subject to space limitations, except in the case of an application to create a single gender charter school. However, it is required that the racial composition of the charter school enrollment reflect that of the local school district in which the charter school is located or that of the targeted student population of the local school district that the charter school proposes to serve, to be defined for the purposes of this chapter as differing by no more than twenty percent from that population. This requirement is also subject to the provisions of Section 59‑40‑70(D). If the number of applications exceeds the capacity of a program, class, grade level, or building, students must be accepted by lot, and there is no appeal to the sponsor;

(8) not limit or deny admission or show preference in admission decisions to any individual or group of individuals, except in the case of an application to create a single gender charter school; ~~however,~~ A charter school may give enrollment priority to a sibling of a pupil ~~already~~ currently enrolled or previously enrolled~~,~~. A charter school also may give priority to children of a charter school employee~~,~~ and children of the charter committee, if ~~such~~ priority enrollment for children of employees and of the charter committee does not constitute more than twenty percent of the enrollment of the charter school;

(9) elect its board of directors ~~annually~~. At least one‑third of the board positions must be open for election annually, allowing for staggered terms of no more than three years. Board members may be reelected for consecutive terms as allowed by the charter school bylaws. All employees of the charter school and all parents or guardians of students enrolled in the charter school are eligible to participate in the election. Parents or guardians of a student shall have one vote for each student enrolled in the charter school. A person who has been convicted of a felony must not be elected to a board of directors;

(10) be subject to the Freedom of Information Act, including the charter school and its governing body. A board of directors of a charter school shall notify its sponsor of any regular meeting of the board at least forty‑eight hours prior to the date on which it is to occur.

(C)(1) If a charter school denies admission to a student, the student may appeal the denial to the sponsor. The decision is binding on the student and the charter school.

(2) If a charter school suspends or expels a student, other charter schools or the local school district in which the charter school is located has the authority but not the obligation to refuse admission to the student.

(3) ~~The sponsor has no obligation to provide extracurricular activities or access to facilities of the school district for students enrolled in the charter school; however, the charter contract may include participation in agreed upon interscholastic activities at a designated school within the sponsor district. Notwithstanding another provision of law, the local school district has no obligation to provide charter schools, sponsored by the South Carolina Public Charter School District, extracurricular activities or access to facilities of the school district for students enrolled in charter schools unless the school district, by contract, has agreed to provide activities or access. Students participating under this agreement must be considered eligible to participate in league events if other eligibility requirements are met.~~ (a) A charter school is eligible for federally sponsored, state‑sponsored or district‑sponsored interscholastic leagues, competitions, awards, scholarships, grants, and recognition programs for students, educators, administrators, staff, and schools to the same extent as all other public schools.

(b) A charter school student is eligible to compete for, and if selected, participate in extracurricular activities not offered by the student’s school at the resident public school.

(c) A charter school student is eligible for extracurricular activities at the student’s resident public school consistent with eligibility standards as applied to full‑time students of the resident public school.

(d) A school district or resident public school may not impose additional requirements on a charter school student to participate in extracurricular activities that are not imposed on full‑time students of the resident public school.

(e) Charter school students shall pay the same fees as other students to participate in extracurricular activities.

(f) Charter school students shall be eligible for the same fee waivers for which other students are eligible.

(D) The State is not responsible for student transportation to a charter school unless the charter school is designated by the local school district as the only school selected within the local school district’s attendance area. However, a charter school may enter into a contract with a school district or a private provider to provide transportation to the charter school students.

(E) The South Carolina Public Charter School District Board of Trustees may not use program funding for transportation.”

SECTION 7. Section 59‑40‑60 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑60. (A) An approved charter application constitutes an agreement~~, and the terms must be the terms of a contract~~ between the charter school and the sponsor.

(B) ~~The~~ A contract between the charter school and the sponsor ~~shall~~ must be executed and must reflect all provisions outlined in the application as well as the roles, powers, responsibilities, and performance expectations for each party to the contract. A contract must include the proposed enrollment procedures and dates of the enrollment period of the charter school. All agreements regarding the release of the charter school from school district policies must be contained in the contract. The Department of Education shall develop a contract template to be used by charter schools and the sponsor. The template must serve as a foundation for the development of a contract between the charter school and the sponsor.

(C) A material revision of the terms of the contract between the charter school and the sponsor may be made only with the approval of both parties.

(D) Except as provided in subsection (F), an applicant who wishes to form a charter school shall:

(1) organize the charter school as a nonprofit corporation pursuant to the laws of this State;

(2) form a charter committee for the charter school which includes one or more teachers;

(3) submit a written charter school application to the charter school advisory committee and to the school board of trustees or area commission from which the committee is seeking sponsorship.

(E) A charter committee is responsible for and has the power to:

(1) submit an application to operate as a charter school, sign a charter school contract, and ensure compliance with all of the requirements for charter schools provided by law;

(2) employ and contract with teachers and nonteaching employees, contract for services, and develop pay scales, performance criteria, and discharge policies for its employees. All teachers whether certified or noncertified must undergo the background checks and other investigations required for certified teachers, as provided by law, before they may teach in the charter school; and

(3) decide all other matters related to the operation of the charter school, including budgeting, curriculum, and operating procedures.

(F) The charter school application ~~shall be a proposed contract and~~ must include:

(1) the mission statement of the charter school, which must be consistent with the principles of the General Assembly’s purposes pursuant to Section 59‑40‑20;

(2) the goals, objectives, and pupil achievement standards to be achieved by the charter school, and a description of the charter school’s admission policies and procedures;

(3) evidence that an adequate number of parents, teachers, pupils, or any combination of them support the formation of a charter school;

(4) a description of the charter school’s educational program, pupil achievement standards, and curriculum which must meet or exceed any content standards adopted by the State Board of Education and the ~~chartering district~~ sponsor must be designed to enable each pupil to achieve these standards;

(5) a description of the charter school’s plan for evaluating pupil achievement and progress toward accomplishment of the school’s achievement standards in addition to state assessments, the timeline for meeting these standards, and the procedures for taking corrective action if that pupil achievement falls below the standards;

(6) evidence that the plan for the charter school is economically sound, a proposed budget for the term of the charter, a description of the manner in which an annual audit of the financial and administrative operations of the charter school, including any services provided by the ~~school district~~ sponsor, is to be conducted;

(7) a description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school;

(8) a description of how the charter school plans to ensure that the enrollment of the school is similar to the racial composition of the local school district in which the charter school is to be located or the targeted student population of the local school district that the charter school proposes to serve and provide assurance that the school does not conflict with any school district desegregation plan or order in effect for the school district in which the charter school is to be located;

(9) a description of how the charter school plans to meet the transportation needs of its pupils;

(10) a description of the building, facilities, and equipment and how they shall be obtained;

(11) an explanation of the relationship that shall exist between the proposed charter school and its employees, including descriptions of evaluation procedures and evidence that the terms and conditions of employment have been addressed with affected employees;

(12) a description of a reasonable grievance and termination procedure, as required by this chapter, including notice and a hearing before the governing body of the charter school. The application must state whether or not the provisions of Article 5, Chapter 25 ~~of~~, Title 59 apply to the employment and dismissal of teachers at the charter school;

(13) a description of student rights and responsibilities, including behavior and discipline standards, and a reasonable hearing procedure, including notice and a hearing before the board of directors of the charter school before expulsion;

(14) an assumption of liability by the charter school for the activities of the charter school and an agreement that the charter school must indemnify and hold harmless the ~~school district~~ sponsor, its servants, agents, and employees, from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from injury to persons or property or otherwise which arises out of the act, failure to act, or negligence of the charter school, its agents and employees, in connection with or arising out of the activity of the charter school; and

(15) a description of the types and amounts of insurance coverage to be obtained by the charter school.

(G) Nothing in this section shall require a charter school applicant to provide a list of prospective or tentatively enrolled students or prospective employees with the application.”

SECTION 8. Section 59‑40‑70 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑70. (A) The Charter School Advisory Committee must be established by the State Board of Education to review charter school applications for compliance with established standards that reflect the requirements and intent of this chapter. Members must be appointed by the State Board of Education unless otherwise indicated.

(1) The advisory committee shall consist of eleven members as follows:

(a) ~~South Carolina Association of Public Charter Schools, the president or his designee and one additional representative from the association;~~

~~(b)~~ South Carolina Association of School Administrators, the executive director or his designee;

~~(c)~~(b) South Carolina Chamber of Commerce, the executive director or his designee and one additional representative from the chamber;

~~(d)~~(c) South Carolina Education Oversight Committee, the chair or a business designee;

~~(e)~~(d) South Carolina Commission on Higher Education, the chair or his designee;

~~(f)~~(e) South Carolina School Boards Association, the executive director or his designee;

~~(g)~~(f) South Carolina Alliance of Black Educators, the president or his designee; ~~and~~

(~~h~~g) one teacher and one parent to be appointed by the State Superintendent of Education~~.~~; and

(h) one charter school principal and one charter school board member to be appointed by the Governor.

(2) As an application is reviewed, a representative from the board of trustees or area commission from which the committee is seeking sponsorship and a representative of the charter committee shall serve on the advisory committee as ex officio nonvoting members. If the applicant indicates a proposed contractual agreement with the local school district in which the charter school is located, a representative from the local school board of trustees of that district shall serve on the advisory committee as an ex officio, nonvoting member.

(3) Appointing authorities shall give consideration to the appointment of minorities and women as representatives on the committee.

(4) The committee shall establish bylaws for its operation that must include terms of office for its membership.

(5) An applicant shall submit the application to the advisory committee and one copy to the school board of trustees ~~of the district~~ or area commission from which it is seeking sponsorship. In the case of the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor, the applicant shall provide notice of the application to the local school board of trustees in which the charter school will be located for informational purposes only. The advisory committee shall receive input from the school district ~~in~~ or the public or independent institution of higher learning from which the applicant is seeking sponsorship and shall request clarifying information from the applicant. An applicant may submit an application to the advisory committee ~~at any time during the fiscal year~~ pursuant to State Board of Education regulations and the advisory committee, within ~~sixty~~ ninety days, shall determine whether the application is in compliance. An application that is in compliance must be forwarded to the board or area commission of the school district or the public or independent institution of higher learning from which the applicant is seeking sponsorship with a letter stating the application is in compliance. The letter also shall include a recommendation from the Charter School Advisory Committee to approve or deny the charter. The letter must specify the reasons for its recommendation. This recommendation is nonbinding on the school board of trustees or area commission. If the application is in noncompliance, it must be returned to the applicant with deficiencies noted. The applicant may appeal the decision to the Administrative Law Court.

(B) The school board of trustees or area commission from which the applicant is seeking sponsorship shall rule on the application for a charter school in a public hearing, upon reasonable public notice, within ~~thirty~~ forty‑five days after receiving the application. If there is no ruling within ~~thirty~~ forty‑five days, the application is considered approved. Once the application has been approved by the school board of trustees or area commission, the charter school may open at the beginning of the following year. However, before a charter school may open, the State Department of Education shall verify the accuracy of the financial data for the school within forty‑five days after approval.

(C) A ~~school district~~ board of trustees ~~only~~ or area commission shall deny an application only if the application does not meet the requirements specified in Section 59‑40‑50 or 59‑40‑60, fails to meet the spirit and intent of this chapter, or adversely affects, as defined in regulation, the other students in the district in which the charter school is to be located. It shall provide, within ten days, a written explanation of the reasons for denial, citing specific standards related to provisions of Section 59‑40‑50 or 59‑40‑60 that the application violates. This written explanation immediately must be sent to the charter committee and filed with the State Board of Education and the Charter School Advisory Committee.

(D) In the event that the racial composition of an applicant’s or charter school’s enrollment differs from the enrollment of the local school district in which the charter school is to be located or the targeted student population of the local school district by more than twenty percent, despite its best efforts, the ~~school district~~ board of trustees or area commission from which the applicant is seeking sponsorship shall consider the applicant’s or the charter school’s recruitment efforts and racial composition of the applicant pool in determining whether the applicant or charter school is operating in a nondiscriminatory manner. A finding by the ~~school district~~ board of trustees or area commission that the applicant or charter school is operating in a racially discriminatory manner justifies the denial of a charter school application or the revocation of a charter as provided in this section or in Section 59‑40‑110, as may be applicable. A finding by the ~~school district~~ board of trustees or area commission that the applicant is not operating in a racially discriminatory manner justifies approval of the charter without regard to the racial percentage requirement if the application is acceptable in all other aspects.

(E) If the ~~school district~~ board of trustees or area commission from which the applicant is seeking sponsorship denies a charter school application, the charter applicant may appeal the denial to the Administrative Law Court pursuant to Section 59‑40‑90.

(F) If the ~~school district~~ board of trustees or area commission approves the application, it becomes the charter school’s sponsor and shall sign the approved application~~, which constitutes a contract with the charter committee of the charter school~~. The sponsor shall submit a copy of the charter ~~must be filed with~~ contract to the State Board of Education.

(G) If a local school board of trustees has information that an approved application by the South Carolina Public Charter School District or a public or independent institution of higher learning adversely affects the other students in its district, as defined in regulation, or that the approval of the application fails to meet the spirit and intent of this chapter, the local school board of trustees may appeal the granting of the charter to the Administrative Law Court. The Administrative Law Court, within forty‑five days, may affirm or reverse the application for action by the South Carolina Public Charter School District or the public or independent institution of higher learning in accordance with an order of the state board.”

SECTION 9. Section 59‑40‑100 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑100. (A) An existing public school may be converted into a charter school if two‑thirds of the faculty and instructional staff employed at the school and ~~two‑thirds~~ a majority of ~~all voting parents or legal guardians of students enrolled in the school~~ returned premailed ballots issued to those who are eligible to vote agree to the filing of an application with the local school board of trustees for the conversion and formation of that school into a charter school. Parents or legal guardians of students enrolled in the school must be given the opportunity to vote on the conversion. Parents or guardians of a student shall have one vote for each student enrolled in the school seeking conversion. The State Board of Education shall promulgate regulations providing for paper ballots to be used in the voting process. The application must be submitted pursuant to Section 59‑40‑70(A)(5) by the principal of that school or his designee who must be considered the applicant. The application must include all information required of other applications pursuant to this chapter. The local school board of trustees shall approve or disapprove this application in the same manner it approves or disapproves other applications. The existence of another charter granting authority must not be grounds for disapproving a school desiring to convert to a charter school.

(B) A converted charter school shall offer at least the same grades, or nongraded education appropriate for the same ages and education levels of pupils, as offered by the school immediately before conversion, and also may provide additional grades and further educational offerings.

(C) All students enrolled in the school at the time of conversion must be given priority enrollment. Thereafter, students who reside within the former attendance area of that public school must be given enrollment priority.

(D) All employees of a converted school shall remain employees of the local school district ~~or~~, the South Carolina Public Charter School District, or the public or independent institution of higher learning sponsor with the same compensation and benefits including any future increases. The converted charter school quarterly shall reimburse the local school district ~~or~~, the South Carolina Public Charter School District, or the public or independent institution of higher learning sponsor for the compensation and employer contribution benefits paid to or on behalf of these employees and also provide to the ~~school district~~ sponsor any reports, forms, or data necessary for maintaining retirement coverage and providing South Carolina Retirement Systems benefits to converted school employees. The provisions of Article 5, Chapter 25 ~~of~~, Title 59 apply to the employment and dismissal of teachers at a converted school.

(E) For the duration of a converted charter school’s contract with a sponsor, a converted charter school shall have the right to retain occupancy and use of the school’s facility or facilities and all equipment, furniture, and supplies that were available to the school before it converted, in the same manner as before the school converted, with no additional fees or charges.

~~(E)~~(F) The South Carolina Public Charter School District or a public or independent institution of higher learning may not sponsor a public school to convert to a charter school. However, the South Carolina Public Charter School District or a public or independent institution of higher learning may sponsor a converted charter school renewal if the charter school has not committed a material violation of the provisions specified in subsection (C) of Section 59‑40‑110 and the local school district board of trustees refuses to renew the charter. In such cases, the charter school shall continue to receive local funding pursuant to Section 59‑40‑110(A). However, the charter school is not eligible to receive one hundred percent of the base student cost from the State. The charter school only is eligible to receive the percentage of the base student cost previously received as a school in its former district.”

SECTION 10. Section 59‑40‑110 of the 1976 Code, as last amended by Act 239 of 2008, is further amended to read:

“Section 59‑40‑110. (A) A charter must be approved or renewed for a period of ten school years; however, the charter only may be revoked or not renewed under the provisions of subsection (C) of this section. The sponsor annually shall evaluate the conditions outlined in subsection (C). The annual evaluation results must be used in making a determination for nonrenewal or revocation.

(B) A charter renewal application must be submitted to the school’s sponsor, and it must contain:

(1) a report on the progress of the charter school in achieving the goals, objectives, pupil achievement standards, and other terms of the initially approved charter application; and

(2) a financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that allows comparison of these costs to other schools or other comparable organizations, in a format required by the State Board of Education.

(C) A charter ~~must~~ may be revoked or not renewed by the sponsor if it determines that the charter school:

(1) committed a material violation of the conditions, standards, or procedures provided for in the charter application;

(2) failed to meet or make reasonable progress, as defined in the charter application, toward pupil achievement standards identified in the charter application;

(3) failed to meet generally accepted standards of fiscal management; or

(4) violated any provision of law from which the charter school was not specifically exempted.

(D) At least sixty days before not renewing or terminating a charter school, the sponsor shall notify in writing the charter school’s governing body of the proposed action. The notification shall state the grounds for the proposed action in reasonable detail. Termination must follow the procedure provided for in this section.

(E) The existence of another charter granting authority must not be grounds for the nonrenewal or revocation of a charter. Grounds for nonrenewal or revocation must be only those specified in subsection (C) of this section.

(F) The charter school’s governing body may request in writing a hearing before the sponsor within fourteen days of receiving notice of nonrenewal or termination of the charter. Failure by the school’s governing body to make a written request for a hearing within fourteen days must be treated as acquiescence to the proposed action. Upon receiving a timely written request for a hearing, the sponsor shall give reasonable notice to the school’s governing body of the hearing date. The sponsor shall conduct a hearing before taking final action. The sponsor shall take final action to renew or not renew a charter by the last day of classes in the last school year for which the charter school is authorized.

(G) A charter school seeking renewal may submit a renewal application to another charter granting authority if the charter school has not committed a material violation of the provisions specified in subsection (C) of this section and the ~~local school district board of trustees~~ sponsor refuses to renew the charter. In such cases, the charter school shall continue to receive local funding pursuant to Section 59‑40‑140(A). However, the charter school is not eligible to receive one hundred percent of the base student cost from the State. The charter school only is eligible to receive the percentage of the base student cost previously received as a school in its former district.

(H) A decision to revoke or not to renew a charter school may be appealed to the Administrative Law Court pursuant to the provisions of Section 59‑40‑90.”

SECTION 11. Section 59‑40‑140 of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“Section 59‑40‑140. (A) A local school board of trustees sponsor shall distribute state, county, and school district funds to a charter school as determined by the following formula: the previous year’s audited total general fund revenues, divided by the previous year’s weighted students, then increased by the Education Finance Act inflation factor, pursuant to Section 59‑20‑40, for the years following the audited expenditures, then multiplied by the weighted students enrolled in the charter school, which will be subject to adjustment for student attendance and state budget allocations based on the same criteria as the local school district. These amounts must be verified by the ~~State~~ Department of Education before the first disbursement of funds. All state and local funding must be distributed by the local school district to the charter school monthly beginning July first following approval of the charter school application and must continue to be disbursed to the charter school for the duration of its charter and for the duration of any subsequent renewals. After verification of student attendance on the fifth day of school at the beginning of each school year, the State Department of Education shall distribute funds to school districts with charter schools (i) having approved incremental growth and expansion as provided in their charter application, or (ii) for opening of new charter schools in the current fiscal year. These funds must be released to districts on behalf of their charter schools no later than fifteen days after receipt of verified enrollment. Districts shall provide this funding to eligible charters no later than thirty days after receipt from the Department of Education. Necessary adjustments due to enrollment changes must be made pursuant to the Education Finance Act.

(B)(1) The South Carolina Public Charter School District or a public or independent institution of higher learning sponsor shall receive and distribute state funds to the charter school as determined by the following formula~~:~~, based on the funds the child enrolled in the charter school would have generated were he enrolled in his resident public school as defined in Section 59‑40‑40(10): the current year’s base student cost, as funded by the General Assembly, multiplied by the weighted students enrolled in the charter school, which must be subject to adjustment for student attendance and state budget allocations. These state funds are in addition to other funds to be received and distributed by the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor pursuant to subsections (C) and (D) of this section and Section 59‑40‑220(A). ~~However, the South Carolina Public Charter School District may not retain more than two percent of its gross revenue for its internal administrative and operating expenses.~~ The South Carolina Public Charter School District or a public or independent institution of higher learning sponsor also shall receive and distribute local school district funds to the charter school equal to the total local appropriations each student enrolled in the charter school would have received were he enrolled in his resident public school as defined in Section 59‑40‑40(10).

(2) A local school district shall remit at least quarterly to the South Carolina Public Charter School District or to a public or independent institution of higher learning sponsor funds equal to the local funds that each student who resides within the local school district, but who is enrolled in a charter school sponsored by the South Carolina Public Charter School District or a public or independent institution of higher learning, would have received were he enrolled in his resident public school. If the local school district fails to remit these funds, the Department of Education may fine the district an amount equivalent to the withheld funds. Fines imposed must be remitted to the South Carolina Public Charter School District or the public or independent institution of higher learning sponsor and distributed to the charter school from which the amounts were withheld.

(3) Items (1) and (2) of this subsection do not apply to a virtual charter school sponsored by the South Carolina Public Charter School District or a public or independent institution of higher learning. The South Carolina Public Charter School District or a public or independent institution of higher learning sponsor shall receive and distribute seventy‑five percent of the total state appropriations as determined by the following formula, based on the funds the child enrolled in the virtual charter school would have generated were he enrolled in his resident public school as defined in Section 59‑40‑40(10): the current year’s base student cost, as funded by the General Assembly, multiplied by the weighted students enrolled in the charter school, which must be subject to adjustment for student attendance and state budget allocations. The South Carolina Public Charter School District or a public or independent institution of higher learning sponsor also shall receive and distribute seventy‑five percent of the total local appropriations each student enrolled in the virtual charter school would have received were he enrolled in his resident public school as defined in Section 59‑40‑40(10).

(4) A local school district shall remit at least quarterly to the South Carolina Public Charter School District or a public or independent institution of higher learning sponsor funds equal to seventy‑five percent of the local funds that each student who resides in the local school district, but who is enrolled in a virtual charter school, would have received were he enrolled in his resident public school as defined in Section 59‑40‑40(10). If the local school district fails to remit these funds, the Department of Education may fine the district an amount equal to the withheld funds. Fines imposed must be remitted to the South Carolina Public Charter School District or the public or independent institution of higher learning sponsor and distributed to the charter school from which the amounts were withheld.

(C) During the year of the charter school’s operation, as received, and to the extent allowed by federal law, a sponsor shall distribute to the charter school federal funds which are allocated to the ~~school district~~ sponsor on the basis of the number of special characteristics of the students attending the charter school. These amounts must be verified by the State Department of Education before the first disbursement of funds.

(D) Notwithstanding subsection (C), the proportionate share of state and federal resources generated by students ~~with disabilities~~ or staff serving them must be directed to the ~~school district board of trustees~~ sponsor. ~~The proportionate share of funds generated under other federal or state categorical aid programs must be directed to the school district board of trustees serving students eligible for the aid pursuant to state and federal law.~~ After receipt of federal or state categorical aid funds, sponsors shall, within ten business days, supply to the charter school the proportional share of each categorical fund for which the charter school qualifies. If the sponsor fails to do so, the Department of Education may fine the sponsor an amount equivalent to the withheld amounts. Fines imposed must be remitted to the charter school from which the amounts were withheld.

(E) All services centrally or otherwise provided by the sponsor ~~or local school district, if any,~~ including, but not limited to, food services, custodial services, maintenance, curriculum, media services, libraries, and warehousing are subject to negotiation between a charter school and the sponsor ~~or local school district~~ and must be outlined in the contract required pursuant to Section 59‑40‑70(F).

(F) All awards, grants, or gifts collected by a charter school must be retained by the charter school.

(G) The governing body of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to expend or use the gifts, donations, or grants in accordance with the conditions prescribed by the donor. A gift or donation must not be required for admission. However, a gift, donation, or grant must not be accepted by the governing board if subject to a condition contrary to law or contrary to the terms of the contract between the charter school and the governing body. All gifts, donations, or grants must be reported to the sponsor in their annual audit report as required in Section 59‑40‑50(B)(3).

(H) A charter school shall report to its sponsor and the Department of Education any change to information provided under its application. In addition, a charter school shall report at least annually to its sponsor and the sponsor shall compile those reports into a single document which must be submitted to the department. The Department of Education shall develop a template to be used by charter schools for this annual report. The report shall provide all information required by the sponsor or the department and shall include ~~including~~, at a minimum~~,~~:

(1) the number of students enrolled in the charter school from year to year;

(2) the success of students in achieving the specific educational goals for which the charter school was established;

(3) an analysis of achievement gaps among major groupings of students in both proficiency and growth; ~~and~~

(4) the identity and certification status of the teaching staff;

(5) the financial performance and sustainability of the sponsor’s charter schools; and

(6) board performance and stewardship including compliance with applicable laws.

(I) The sponsor shall provide technical assistance to persons and groups preparing or revising charter applications at no expense.

(J) Charter schools may acquire by gift, devise, purchase, lease, sublease, installment purchase agreement, land contract, option, or by any other means, and hold and own in its own name buildings or other property for school purposes and interests in it which are necessary or convenient to fulfill its purposes.

(K) Charter schools are exempt from all state and local taxation, except the sales tax, on their earnings and property. Instruments of conveyance to or from a charter school are exempt from all types of taxation of local or state taxes and transfer fees.”

SECTION 12. Section 59‑40‑190(C) of the 1976 Code is amended to read:

“(C) A local school district, sponsor, members of the board or area commission of a sponsor, and employees of a sponsor acting in their official capacity are immune from civil or criminal liability with respect to all activities related to a charter school they sponsor. The governing body of a charter school shall obtain at least the amount of and types of insurance required for this purpose.”

SECTION 13. Section 59‑40‑230(A) of the 1976 Code, as added by Act 274 of 2006, is amended to read:

“(A) The South Carolina Public Charter School District must be governed by a board of trustees consisting of not more than ~~eleven~~ nine members:

(1) two appointed by the Governor;

(2) one appointed by the Speaker of the House of Representatives;

(3) one appointed by the President *Pro Tempore* of the Senate; and

(4) ~~seven~~ five to be appointed by the Governor upon the recommendation of the:

(a) ~~South Carolina Association of Public Charter Schools and one additional representative from the association;~~

~~(b)~~ South Carolina Association of School Administrators;

~~(c)~~(b) South Carolina Chamber of Commerce;

~~(d)~~(c) South Carolina Education Oversight Committee;

~~(e)~~(d) South Carolina School Boards Association; and

~~(f)~~(e) South Carolina Alliance of Black Educators.

The ~~nine~~ seven members appointed by the Governor pursuant to this subsection are subject to advice and consent of the Senate. Membership of the committee must reflect representatives from each of the entities in item (A)(4) or their designee as reflected in their recommendation.

Each member of the board of trustees shall serve terms of three years, except that, for the initial members, two appointed by the Governor, one by the Speaker of the House, and one by the President *Pro Tempore* of the Senate, shall serve terms of one year and three appointed by the Governor shall serve terms of two years. A member of the board may be removed after appointment pursuant to Section 1‑3‑240. In making appointments, every effort must be made to ensure that all geographic areas of the State are represented and that the membership reflects urban and rural areas of the State as well as the ethnic diversity of the State.”

SECTION 14. Section 59‑40‑130(A) of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“(A)(1) If an employee of a local school district makes a written request for leave to be employed at a charter school before July 1, 2006, the school district shall grant the leave for up to five years as requested by the employee. The school district may require that the request for leave or extension of leave be made by the date provided for by state law for the return of teachers’ contracts. Employees may return to employment with the local school district at its option with the same teaching or administrative contract status as when they left but without assurance as to the school or supplemental position to which they may be assigned.

(2) Notwithstanding the provisions of item (1) of this subsection and subject to the provisions of subsection (B) of this section, a charter school employing after June 30, 2006, an individual on leave from a local school district shall participate in the South Carolina Retirement Systems as a covered employer with respect to that employee on leave through the earlier of the date the employee on leave returns to employment by the district or June 30, 2011, and only if the charter school and the employee have made required employer and employee contributions to the South Carolina Retirement Systems from the employee’s date of employment with the charter school.”

SECTION 15. Section 59-40-220(A) of the 1976 Code, as last amended by Act 274 of 2006, is further amended to read:

“(A) The South Carolina Public Charter School District may not have a local tax base and may not receive local property taxes. This prohibition does not extend to local funds received by the district on behalf of sponsored charter schools pursuant to Section 59-40-140(B).”

SECTION 16. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Rep. OWENS moved to table the amendment, which was agreed to.

Rep. BRANNON spoke against the Bill.

Rep. ANTHONY spoke upon the Bill.

Rep. PARKER spoke against the Bill.

Rep. OWENS spoke in favor of the Bill.

The question then recurred to the passage of the Bill.

Pursuant to Rule 7.7 the yeas and nays were taken resulting as follows:

Yeas 85; Nays 32

Those who voted in the affirmative are:

|  |  |  |
| --- | --- | --- |
| Agnew | Allison | Anthony |
| Ballentine | Bannister | Barfield |
| Bikas | Bingham | Bowen |
| Bowers | Brady | Branham |
| H. B. Brown | Butler Garrick | Chumley |
| Clemmons | Cole | Cooper |
| Corbin | Crawford | Crosby |
| Daning | Delleney | Edge |
| Erickson | Forrester | Frye |
| Funderburk | Gambrell | Govan |
| Hamilton | Hardwick | Harrell |
| Harrison | Hearn | Henderson |
| Herbkersman | Hixon | Huggins |
| Knight | Limehouse | Loftis |
| Long | Lowe | Lucas |
| McCoy | McLeod | Merrill |
| D. C. Moss | V. S. Moss | Munnerlyn |
| Murphy | Nanney | J. M. Neal |
| Neilson | Norman | Ott |
| Owens | Patrick | Pinson |
| Pitts | Pope | Quinn |
| Ryan | Sandifer | Sellers |
| Simrill | G. M. Smith | G. R. Smith |
| J. R. Smith | Sottile | Spires |
| Stavrinakis | Stringer | Tallon |
| Taylor | Thayer | Toole |
| Tribble | Vick | Viers |
| White | Whitmire | Willis |
| Young |  |  |

**Total--85**

Those who voted in the negative are:

|  |  |  |
| --- | --- | --- |
| Allen | Anderson | Bales |
| Battle | Brannon | Brantley |
| G. A. Brown | R. L. Brown | Clyburn |
| Cobb-Hunter | Dillard | Gilliard |
| Hart | Hayes | Hiott |
| Hodges | Hosey | Howard |
| Jefferson | King | Mack |
| McEachern | Mitchell | J. H. Neal |
| Parker | Parks | Rutherford |
| Sabb | Skelton | Weeks |
| Whipper | Williams |  |

**Total--32**

So, the Bill, as amended, was read the second time and ordered to third reading.

**STATEMENT BY REP. OWENS**

Rep. OWENS gave notice of offering amendments on third reading if necessary, pursuant to Rule 9.2.

STATEMENT FOR THE JOURNAL

I support charter schools but could not vote for this Bill for the following reasons:

1. The Bill states that the General Assembly will fund the Bill, and if I were sure a line item in the budget would not affect K‑12 funding, I could support it. That line item does not exist at this time.
2. The Bill contains flexibility provisions that could seriously impact K-12 education. The flexibility provision is open ended and we do not know the final impact of the flexibility provisions.

Rep. B. R. Skelton

**H. 3241--MOTION TO RECONSIDER TABLED**

Rep. OWENS moved to reconsider the vote whereby the following Bill was read second time:

H. 3241 -- Reps. Owens, Stringer, G. R. Smith, Harrison, Daning, Hamilton, Bingham, Long, Henderson, Atwater, Lucas, Clemmons, Cooper, Horne, Simrill, D. C. Moss, Sandifer, Harrell, Erickson, Norman, Barfield and Loftis: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59-40-55 SO AS TO PROVIDE CHARTER SCHOOL POWERS AND DUTIES AND TO ALLOW A SPONSOR TO RETAIN CERTAIN FUNDS FOR OVERSEEING THE CHARTER SCHOOL; BY ADDING SECTION 59-40-175 SO AS TO CREATE THE CHARTER SCHOOL FACILITY REVOLVING LOAN PROGRAM FOR THE CONSTRUCTION, PURCHASE, RENOVATION, AND MAINTENANCE OF PUBLIC CHARTER SCHOOL FACILITIES; TO AMEND SECTION 59-40-20, AS AMENDED, RELATING TO THE PURPOSE OF THE CHARTER SCHOOL ACT, SO AS TO INCLUDE AN ADDITIONAL PURPOSE; TO AMEND SECTION 59-40-40, AS AMENDED, RELATING TO DEFINITIONS, SO AS TO AMEND EXISTING DEFINITIONS AND ADD NEW DEFINITIONS; TO AMEND SECTION 59-40-50, AS AMENDED, RELATING TO CHARTER SCHOOL POWERS AND DUTIES, SO AS TO ALLOW FOR THE APPLICATION TO CREATE A SINGLE GENDER CHARTER SCHOOL, REVISE PRIORITY ENROLLMENT LIMITS, PROVIDE FOR THE ELECTION OF A CHARTER SCHOOL BOARD OF DIRECTORS, PROVIDE FOR BOARD MEETING NOTICE REQUIREMENTS, ALLOW A CHARTER SCHOOL TO CONTRACT WITH PROVIDERS FOR STUDENT TRANSPORTATION, AND ALLOW CHARTER SCHOOL STUDENTS TO PARTICIPATE IN CERTAIN EXTRACURRICULAR ACTIVITIES UNDER CERTAIN CONDITIONS; TO AMEND SECTION 59-40-60, AS AMENDED, RELATING TO APPLICATION TO CREATE A CHARTER SCHOOL, SO AS TO CLARIFY WHAT MUST BE INCLUDED IN THE CONTRACT, AND TO REQUIRE THE DEPARTMENT OF EDUCATION TO CREATE A CONTRACT TEMPLATE; TO AMEND SECTION 59-40-70, AS AMENDED, RELATING TO THE CHARTER SCHOOL ADVISORY COMMITTEE, SO AS TO REVISE ITS MEMBERSHIP AND TO EXTEND THE TIME PERIOD IN WHICH THE COMMITTEE SHALL DETERMINE APPLICATION COMPLIANCE AND THE TIME IN WHICH A LOCAL SCHOOL DISTRICT SHALL RULE ON THE APPLICATION; TO AMEND SECTION 59-40-100, AS AMENDED, RELATING TO CHARTER SCHOOL CONVERSION, SO AS TO REQUIRE THE STATE BOARD OF EDUCATION TO PROMULGATE REGULATIONS PROVIDING FOR PAPER BALLOTS, TO REVISE PRIORITY ENROLLMENT PROCEDURES FOR A CONVERTED CHARTER SCHOOL, AND TO ALLOW A CONVERTED CHARTER SCHOOL TO RETAIN FACILITIES AND EQUIPMENT AVAILABLE BEFORE CONVERSION; TO AMEND SECTION 59-40-110, AS AMENDED, RELATING TO THE DURATION OF A CHARTER, SO AS TO ALLOW A SPONSOR TO IMMEDIATELY REVOKE A CHARTER AND CLOSE THE SCHOOL UPON CERTAIN CONDITIONS; TO AMEND SECTION 59-40-140, AS AMENDED, RELATING TO DISTRIBUTION OF RESOURCES, SO AS TO PROVIDE FOR THE DISTRIBUTION OF FUNDS TO CHARTER SCHOOLS, TO REVISE WHAT THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL DISTRICT SHALL RECEIVE, TO ALLOW THE DEPARTMENT OF EDUCATION TO FINE SPONSORS THAT FAIL TO DISTRIBUTE CERTAIN FUNDS TO CHARTER SCHOOLS, AND TO REVISE REPORTING REQUIREMENTS; TO AMEND SECTION 59-40-190, AS AMENDED, RELATING TO LIABILITY OF A GOVERNING BODY OF A CHARTER SCHOOL, SO AS TO PROVIDE IMMUNITY TO A LOCAL SCHOOL DISTRICT FOR CRIMINAL OR CIVIL LIABILITY REGARDING ACTIVITIES RELATED TO A SPONSORED CHARTER SCHOOL; TO AMEND SECTION 59-40-230, RELATING TO THE BOARD OF TRUSTEES OF THE SOUTH CAROLINA PUBLIC CHARTER SCHOOL, SO AS TO REVISE ITS MEMBERSHIP; AND TO AMEND SECTION 59-40-130, AS AMENDED, RELATING TO LEAVE TO BE EMPLOYED AT A CHARTER SCHOOL, SO AS TO PROVIDE THAT A CHARTER SCHOOL IS A COVERED EMPLOYER WITH RESPECT TO THE SOUTH CAROLINA RETIREMENT SYSTEMS FOR CERTAIN SCHOOL DISTRICT EMPLOYEES.

Rep. OWENS moved to table the motion to reconsider, which was agreed to.

Rep. G. M. SMITH moved that the House do now adjourn, which was agreed to.

**ADJOURNMENT**

At 1:43 p.m. the House, in accordance with the motion of Rep. KNIGHT, adjourned in memory of Ruth Lee, mother of House staff member Cynthia Lee, to meet at 10:00 a.m. tomorrow.

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